

FIRST PART
PREMIERE PARTIE
NATIONAL LEGISLATION
LEGISLATION NATIONALE

Argentina ¹

(a) ACT NO. 13,238 OF 10 SEPTEMBER 1948 CONCERNING THE FISCAL IMMUNITIES OF FOREIGN DIPLOMATIC AND CONSULAR MISSIONS

Article 1. Diplomatic and consular missions accredited to the Government of the Argentine Republic are hereby declared to be exempt from fiscal charges, on condition of reciprocity. If, in the case of provincial and/or municipal taxes, the local government does not grant exemption, the nation shall assume responsibility for such taxes.

Article 2. The exemption shall cover all taxes, duties and betterment taxes which are now or may hereafter become chargeable on the property and transactions of an official character or connected with the maintenance of a mission, and on any activity connected with its functions; it shall not, however, cover taxes for which some party other than the foreign mission is primarily liable.

Article 3. Premises which are the official seats of missions and which are the property of the Governments of friendly States shall enjoy the exemptions granted by this Act so long as they continue to be used for these purposes.

Article 4. A person who is an Argentine national by birth or by naturalization shall not, unless he possesses the status of chief of mission or consul, be eligible for the benefit of this Act, irrespective of the office he holds.

(b) DECREE NO. 7757 OF 18 APRIL 1952 TO MAKE REGULATIONS CONCERNING THE TRANSPORTATION TAX

1. *Persons liable*

Article 1. The transportation tax applicable to tickets for travel abroad shall be charged by the travel agencies issuing such tickets, and the said agencies shall remit the tax recovered by them to the Directorate General of Taxation in the manner, subject to the conditions and within the time limit prescribed by the Directorate General.

3. *Exemptions*

Article 5. The tax shall not be chargeable in the following cases:

(1) On tickets issued to recognized official personnel of foreign diplomatic missions accredited in Argentina, and to their families and service personnel;

(2) On tickets issued to foreign consular agents *de carrière*, and to their families and service personnel.

¹ The texts of enactments reproduced under Argentina have been provided by the Permanent Mission of Argentina to the United Nations. Translation by the Secretariat of the United Nations.

In both cases, the exemption shall be contingent on the condition that the same treatment is accorded, in the foreign countries concerned, to the diplomatic representatives and consular agents *de carrière* of Argentina and to their families and service personnel;

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(c) DECREE NO. 4660 OF 18 MARCH 1953 RELATING TO THE ISSUE OF
DIPLOMATIC, OFFICIAL AND COURTESY VISAS BY THE DIPLOMATIC
MISSIONS OF ARGENTINA

Article 1. The embassies and legations of Argentina shall issue diplomatic, official and courtesy visas free of charge, in conformity with the regulations hereinafter enacted.

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Article 14. The provisions of this Decree are contingent on strict reciprocity; the power is reserved to extend less liberal treatment in any case in which a foreign country grants less liberal facilities.

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(d) DECREE NO. 3437 OF 22 NOVEMBER 1955 CONCERNING THE IMMUNITIES
AND PRIVILEGES OF DIPLOMATIC AND CONSULAR PERSONNEL AND OF
INTERNATIONAL ORGANIZATIONS

Article 1. For the purposes of the benefits for which they are eligible under this Decree the persons and entities to which it applies are divided into categories as follows:

- (a) Foreign embassies and legations in their corporate capacity;
- (b) Chiefs of mission accredited as ambassadors, ministers plenipotentiary and chargés d'affaires accredited by Ministers of Foreign Affairs;
- (c) Members of diplomatic missions (other than persons holding honorary posts) whose names appear in the Diplomatic List published by the Ministry of Foreign Affairs;
- (d) Salaried consuls-general and consuls and vice-consuls *de carrière* who are nationals of the country which they represent;
- (e) Salaried members of the administrative personnel of foreign embassies, legations or consulates in Argentina, if they fulfil the following conditions, that is to say if they:
 - (1) Are nationals of the country by which they are employed;
 - (2) Hold diplomatic or official passports;
 - (3) Were not resident in Argentine territory on the date of their appointment or during the two years preceding appointment;
- (f) Persons holding foreign diplomatic or official passports who are on temporary service in, or in transit through, the Argentine Republic;
- (g) Diplomatic couriers;

. . .

Foreign embassies and legations in their corporate capacity

Article 2. Articles addressed to foreign embassies and legations shall be admitted free of duty if the following conditions are fulfilled, that is to say if:

- (a) The sender is the Ministry of Foreign Affairs of the country concerned;

(b) The articles in question consist of furniture and objects of general use or of printed matter, films or like material relating to cultural matters or to tourism, are the property of the State by which they are sent and are intended for use in the premises and offices of the mission concerned.

Article 3. Motor vehicles which are the property of foreign States and are assigned for the use of their diplomatic missions in Argentina may be imported free of duty in the quantity necessary for the service of the mission. Vehicles imported on these terms must not on any account whatsoever be registered as Argentine vehicles or transferred or alienated in Argentina until after the expiry of a period of five years from the date on which they were imported duty free. After the expiry of the said period, such vehicles shall be exempted without formality from customs duties, taxes and currency regulations; nevertheless, for the purposes of a transfer it shall be necessary to produce an import certificate issued by the National Directorate of Customs and an additional certificate to be issued by the Ministry of Foreign Affairs on surrender of the diplomatic number plates.

Article 4. The provisions of article 3 of this Decree shall apply to motor vehicles at present in use by foreign missions if they are the property of the State concerned.

Article 5. Cinematographic films which are imported duty free and are intended for exhibition outside the premises of a diplomatic mission shall be admitted duty free, subject to declaration of the title, subject, footage and number of reels, if the mission in question gives an undertaking to the effect that the films will not be exhibited in public and will be re-exported in due course.

In the case of publications intended for distribution in Argentina, the particulars to be supplied shall specify the title, whether the publications in question are books or pamphlets, the number of copies and the language in which they are written.

Article 6. Temporary exemption from customs duties shall be granted in respect of works of art and objects and articles imported by foreign diplomatic missions for exhibition purposes, provided that an undertaking to re-export is given and the probable date of re-export is stated on the proper form.

Article 7. The rules relating to customs exemption do not apply to commercial samples. The Ministry of Foreign Affairs shall, however, give due attention to applications from foreign missions for import licences in respect of such samples.

Chiefs of mission and members of diplomatic missions

Article 8. Accredited chiefs of mission and the members of missions whose names appear in the Diplomatic List may import, free of duty, articles for their own use and consumption in reasonable quantities according to their respective ranks.

Chiefs of mission, other than acting *chargés d'affaires*, may import two motor vehicles duty free every two years. Other members of missions whose names appear in the Diplomatic List may import one motor vehicle every two years.

Article 9. After the expiry of two years from the date of their duty-free import, the vehicles mentioned in the preceding article may be registered

as Argentine vehicles and alienated in Argentina, being exempted without formality from customs duties, taxes and currency regulations; nevertheless, for the purposes of the transfer of such a vehicle it shall be necessary to produce an import certificate issued by the National Directorate of Customs and an additional certificate to be issued by the Ministry of Foreign Affairs on surrender of the diplomatic number plates.

Article 10. The privilege of the duty-free import of motor vehicles shall be renewed, irrespective of any stipulated time limit, in respect of a new car if it is proved that the old vehicle has been exported with the concurrence of the Ministry of Foreign Affairs.

Article 11. On the termination of an official's functions, any nonperishable goods and any motor vehicles which he imported duty-free shall qualify for like customs privileges on being exported; alternatively, they may be disposed of in Argentina in conformity with the provisions of this Decree. For the purpose of the registration of the vehicle as an Argentine vehicle, the diplomatic mission concerned must officially report the termination of the functions of the person in question and arrange for the discharge of the formalities prescribed by the *Banco Central* and the National Directorate of Customs in the matter of currency regulations and the payment of customs duties, taxes and other charges, in so far as these formalities have to be satisfied before the vehicle can be registered and eventually disposed of in Argentina.

Article 12. The right of a diplomatic official to exemption from import duties shall subsist for sixty days (but not longer) after the date of his departure from Argentina on the termination of his functions, provided that he can prove that the orders for the goods in question were placed while he was stationed in Argentina.

Consuls-general, consuls and vice-consuls de carrière

Article 13. The consuls-general, consuls and vice-consuls who come within the terms of article 1 (*d*) may freely import goods for their use and consumption on the occasion of their initial installation, provided that the goods are imported within a period of one hundred and eighty (180) days from the date of their arrival in Argentina. In the case of consular officials now accredited to Argentina, the import of electrical appliances shall also be deemed to be made on the occasion of initial installation. For the purpose of imports of motor vehicles free of duty, the provisions of articles 8, 9, 10 and 11 of this Decree shall be applicable to consular officials.

Administrative personnel

Article 14. Members of the administrative personnel of foreign diplomatic and consular missions shall be entitled, on one single occasion, to import their personal effects free of duty, this exemption not to apply, however, to motor vehicles, alcoholic beverages and tobacco. The effects must originate from the employee's own country, or from his last country of residence, and must be imported within one hundred and eighty (180) days from the date of his arrival in Argentina.

Persons holding foreign diplomatic or official passports

Article 15. A person holding a foreign diplomatic or official passport or a *laissez-passer* issued by an international organization, whose presence in

Argentina is connected with the performance of a temporary mission entrusted to him by his Government or by an international organization shall, subject to verification of his identity and rank, be entitled to such facilities as the customs authorities may direct with respect to the clearance of his baggage.

Article 16. Facilities analogous to those described in the foregoing article shall be accorded in respect of the hand baggage of a person holding a foreign diplomatic or official passport or a *laissez-passer* issued by an international organization, who is passing through Argentina in transit. Hand baggage shall be treated by the customs in conformity with the regulations normally applicable to baggage "in transit".

Diplomatic couriers

Article 17. The customs authorities shall give free clearance to closed and sealed packages which contain diplomatic correspondence and which are brought in by a diplomatic courier. For this purpose, the written formalities relating to clearance shall be waived; it will be sufficient to verify that the courier's passport bears the visa of the competent Argentine diplomatic mission, and that the visa mentions the holder's status as diplomatic courier.

Diplomatic pouches

Article 18. The diplomatic pouches of States with which Argentina has signed special agreements shall continue to be forwarded in the manner laid down in such agreements. The privileges accorded to diplomatic pouches shall not extend to so-called "annexes to diplomatic pouches".

Envelopes, sealed letters and packages containing diplomatic correspondence which reach Argentina by air shall be cleared directly by the customs authorities of the airport and delivered to duly authorized persons holding the appropriate identity cards. It shall be a condition that such items, duly sealed and labelled, must be addressed by a Ministry of Foreign Affairs to an embassy or legation at Buenos Aires or to a chief of mission. They must be declared and accompanied by bills of lading.

Exemption from export duties

Article 22. Articles imported free of duty under the provisions of this Decree shall, on the termination of the functions of the official who imported them, be exempt from export duties. Diplomatic exemption from export duties shall be granted in respect of articles exported within ninety (90) days after the termination of an official's functions, provided that the items to be exported are addressed to the person who imported them free of duty.

Article 23. Exemption from export duties shall also be granted in respect of the baggage of diplomatic and consular officials who leave Argentina on temporary absence.

Article 24. The export of articles and goods produced in Argentina shall be governed by the relevant provisions in force.

Article 25. The hand baggage of the persons to whom this Decree applies shall be cleared without application for exemption and shall be exempt from the payment of duties and from customs inspection. The persons in question shall produce evidence of their identity and status in the form of diplomatic or official passports which must bear the proper visa.

General provisions

Article 26. The benefit of exemption from customs duties extended by this Decree shall be subject to strict reciprocity with respect to each class and category of official and to the kind and quantity of the articles affected. For the purposes of the application of this article, the Ministry of Foreign Affairs shall prepare a register of the exemptions and benefits granted to Argentine diplomatic and consular officials in foreign countries.

Article 27. All applications for exemptions from import and export duties shall be addressed to the Protocol Office of the Ministry of Foreign Affairs on the usual forms and signed by the chief of the diplomatic mission concerned. The applications shall give all the particulars necessary for the identification of the goods, and particulars of their origin, destination, value, weight, mode of conveyance, date of arrival in Argentina, etc. If any of the necessary particulars are omitted, or if the relevant bills of lading, way-bills or postal consignment notes are not attached, the Protocol Office will be unable to transmit the application to the customs authorities.

Article 28. The exemption from customs inspection is granted in conformity with the generally accepted international practice, subject to the proviso, however, that the customs authorities have the right to inspect packages in any circumstance in which, after consultation with the Ministry of Foreign Affairs, they consider that inspection should take place. In such cases, the Ministry of Foreign Affairs shall inform the chief of the mission concerned accordingly, so that he or his representative may be present when the packages are opened.

Article 29. Decree No. 14,037 (M.269) of 22 October 1938, articles 4, 5, 6, 7 and 8 of Decree No. 6,014 (M.25) of 26 April 1955 and any other provisions inconsistent with provisions of the present Decree are hereby repealed.

Australia¹

(a) THE DIPLOMATIC PRIVILEGES ACT, 1708 (THE STATUTE OF 7 ANNE, CHAPTER XII), (SEE *infra*, UNDER UNITED KINGDOM)

(b) THE DIPLOMATIC IMMUNITIES ACT 1952

2. In this Act, unless the contrary intention appears:

“chief representative” means a person, whether he is known by the title of High Commissioner or by another title, who is recognized by the Government of the Commonwealth as the chief representative in Australia of a country to which this Act applies;

“country to which this Act applies” means the United Kingdom, Canada, New Zealand, the Union of South Africa, India, Pakistan, Ceylon or a part of the Queen’s dominions which is declared by the regulations to be a country to which this Act applies;

“envoy” means the envoy of a foreign sovereign power accredited to the Queen in Australia.

¹ The texts of Acts reproduced under Australia have been provided by the Permanent Representative of Australia to the United Nations.

3. This Act extends to all the Territories of the Commonwealth.

4. A chief representative is entitled to the immunity from suit and legal process, and to the inviolability of residence, official premises and official archives, to which he would be entitled if he were an envoy.

5. (1) Subject to the next succeeding sub-section, a person who is:

- (a) A member of the family of a chief representative;
- (b) A member of the staff of a chief representative; or
- (c) A member of the family of a member of the official staff of a chief representative,

is entitled to the immunity from suit and legal process to which he would be entitled if the chief representative were an envoy.

(2) Where a person who is a member of the staff of a chief representative is an Australian citizen and is not a citizen of the country represented by that chief representative —

(a) That person is entitled to immunity under this Act only in respect of things done or omitted to be done in the course of the performance of his duties as a member of that staff; and

(b) A member of the family of that person is not, by reason only of his being a member of that family, entitled to immunity under this Act.

6. Where the Governor-General is of the opinion that a country to which this Act applies is failing to accord treatment to the Commonwealth corresponding to the treatment which the Commonwealth accords to that country under this Act, the regulations may provide —

(a) That that country shall cease to be a country to which this Act applies; or

(b) For the modification of this Act in its application in relation to that country.

7. The regulations may provide that a person who holds a prescribed office in the service of the Government of a prescribed part of the Queen's dominions, not being a country to which this Act applies, is entitled to the immunity from suit and legal process, and to the inviolability of official premises and official archives, to which he would be entitled if he were a consular officer of a foreign sovereign power.

8. (1) A chief representative may waive any right to immunity or inviolability to which:

- (a) He or a member of his family;
- (b) A member of his staff; or
- (c) A member of the family of a member of his official staff, is entitled under this Act.

(2) A person may waive any right to immunity or inviolability to which he is entitled under the regulations.

9. (1) The Minister may issue a certificate certifying any fact relevant to the question whether or not a person is entitled under this Act or the regulations to immunity from suit or legal process or inviolability of residence, official premises or official archives.

(2) A certificate issued under the last preceding sub-section is, in any legal proceedings, conclusive evidence of the fact certified in the certificate.

10. This Act does not affect legal proceedings pending at the commencement of this Act.

11. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(c) INCOME TAX AND SOCIAL SERVICES CONTRIBUTION
ASSESSMENT ACT 1936-1954

PART III. LIABILITY TO TAXATION

Division 1. General

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23. The following income shall be exempt from income tax:

(a) The official salary of, and the income derived from sources out of Australia by, any person being:

- (i) The Governor-General or the Governor of a State;
- (ii) The representative in Australia of the government of another country;
- (iii) A foreign consul;
- (iv) A trade commissioner of any part of the British Empire other than Australia;
- (v) A member of the staff of any such representative, foreign consul or trade commissioner if the member is domiciled in the country represented by the representative, foreign consul or commissioner, and is temporarily resident in Australia by direction of the government of the country so represented for the purpose of performing his official duties, and if the official salary of officials (if any) of the government of the Commonwealth temporarily resident for similar purposes in the country so represented is exempted from income tax by that country; or
- (vi) An officer of the government of any country outside Australia which is part of the British Empire, who is temporarily in Australia to render service on behalf of that country or the Commonwealth or a State in accordance with any arrangement between the governments of that country and of the Commonwealth or of a State, if the salaries of officers of the government of the Commonwealth temporarily in that country for similar purposes in accordance with a similar arrangement are exempted from income tax by that country;

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(d) SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT 1935-1951

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THE SCHEDULES

The First Schedule

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Division XI. Goods for Use by Governments, Representatives of Governments, and Public Bodies.

71. (1) Articles imported or cleared from bond for the personal or official use of:

- (i) The diplomatic representative in the Commonwealth of any foreign country;
- (ii) The High Commissioner in the Commonwealth for any part of His Majesty's dominions;
- (iii) The Official Representative (not being a High Commissioner) in the Commonwealth of a part of His Majesty's dominions, being a citizen of that part;
- (iv) A member of the family of any person mentioned in the preceding paragraphs of this sub-item; or
- (v) A member of the staff of any such person, provided that that member is a citizen of the country represented.

(2) Articles imported or cleared from bond for the official use of a consular representative in Australia of any foreign country and declared as being for such official use, if the consular representative is a citizen of the country he represents and is not otherwise engaged in any business, occupation or profession; and articles owned and imported by any such consular representative or by a member of his staff, if the person importing the articles is a citizen of the country represented and is not engaged in any other business, occupation or profession;

(3) Articles imported or cleared from bond for the official use of a trade commissioner of any British or foreign country and declared as being for such official use, if the trade commissioner is a citizen of the country he represents and is not engaged in any other business, occupation or profession; and articles owned and imported by any such trade commissioner or by a member of his staff, if the person importing the articles is a citizen of the country represented and is not engaged in any other business, occupation or profession;

(4) Subject to the approval of the Minister of State for Trade and Customs, articles, not covered by any other sub-item of this item, imported or cleared from bond for the official use of a representative in Australia of a British possession or foreign country and declared as being for such official use.

71A. Articles cleared from bond for the personal or official use of:

- (i) The diplomatic representative in the Commonwealth of any foreign country;
- (ii) The High Commissioner in the Commonwealth for any part of His Majesty's dominions;
- (iii) The Official Representative (not being a High Commissioner) in the Commonwealth of a part of His Majesty's dominions, being a citizen of that part;
- (iv) A member of the family of any person mentioned in the preceding paragraphs of this item; or
- (v) A member of the staff of any such person, provided that that member is a citizen of the country represented,

if the articles are owned by the person for whose use they are so cleared, or by the Government concerned, before clearance for home consumption.

72. Articles for official use by:

- (i) A High Commissioner, or a Trade Commissioner representing in Australia any other part of His Majesty's dominions; or

- (ii) A Consul or other Representative in Australia of the Government of any other part of His Majesty's dominions or of any other country,

who is a citizen of that other part or country and who is not engaged in any other business, occupation or profession.

(e) CUSTOMS TARIFF 1953-1954 (AN ACT RELATING TO DUTIES OF CUSTOMS)

THE SCHEDULE

IMPORT DUTIES

<i>Tariff Items</i>	<i>British Preferential Tariff</i>	<i>Intermediate Tariff</i>	<i>General Tariff</i>
<i>Division XVI. Miscellaneous</i>			
373. (A) Articles imported or cleared from bond for the personal or official use of:			
(1) The diplomatic representative in the Commonwealth of any foreign country	Free	Free	Free
(2) The High Commissioner in the Commonwealth of any part of the King's dominions	Free	Free	Free
(3) The official representative (not being a High Commissioner) in the Commonwealth of a part of the King's dominions, being a citizen of that part . . .	Free	Free	Free
(4) A consular representative in the Commonwealth of any foreign country, provided that that consular representative is a citizen of the country he represents and is not otherwise engaged in any business, occupation or profession	Free	Free	Free
(5) A Trade Commissioner in the Commonwealth of any British or foreign country, provided that that Trade Commissioner is a citizen of the country he represents and is not otherwise engaged in any business, occupation or profession . .	Free	Free	Free
(6) A member of the staff of any person mentioned in paragraphs (1) to (5) (both inclusive) of this sub-item, provided that that member is a citizen of the country represented	Free	Free	Free
(7) A member of the family of any person mentioned in the preceding paragraphs of this sub-item	Free	Free	Free

(continued)

<i>Tariff Items</i>	<i>British Preferential Tariff</i>	<i>Intermediate Tariff</i>	<i>General Tariff</i>
The Minister may determine that the application of this sub-item in relation to any country shall be conditional on that country granting freedom from customs duty to the representatives of the Commonwealth holding corresponding positions in that country, to their families, and to members of their staffs (being Australian citizens)			
(B) Articles imported or cleared from bond for the official use of the representative in the Commonwealth of a British or foreign country, not being a citizen of the country represented, and declared as being for such official use, subject to the approval of the Minister	Free	Free	Free

Austria

MEMORANDUM ¹ ON THE AUSTRIAN LAWS AND REGULATIONS REGARDING DIPLOMATIC AND CONSULAR IMMUNITIES

I. EXEMPTION OF PERSONS ENJOYING EXTERRITORIAL STATUS FROM AUSTRIAN JURISDICTION

A. CRIMINAL JURISDICTION

(a) CODE OF CRIMINAL PROCEDURE

Article 61. Foreign representatives accredited to the Republic of Austria and the actual personnel of their missions shall not be subject to Austrian jurisdiction. The servants and employees of such representatives and of foreign sovereigns staying in Austria, who are nationals of the State to which the sovereign or representative belongs, shall likewise be exempt from the jurisdiction of the Austrian courts. If official action is to be taken against any such person by reason of a criminal offence, the competent authority shall secure the person of the accused in such manner as circumstances may require but shall forthwith communicate the charge to the Federal Chancellery of Foreign Affairs for transmission to the sovereign or representative with a view to the surrender of the accused.

(b) DECREE OF 1 JUNE 1932 CONCERNING LEGAL REDRESS, JUSTIZAMTSBLATT No. 26 (NOW APPLICABLE TO CRIMINAL PROCEEDINGS BUT NOT TO CIVIL PROCEEDINGS)

Article 23. (1) In principle persons enjoying exterritorial status shall not be subject to Austrian jurisdiction.

¹ Received from the Permanent Representative of Austria to the United Nations. Translation by the Secretariat of the United Nations.

Article 25. (1) In cases in which Austrian courts can validly exercise jurisdiction over persons enjoying extritorial status or in which such persons file complaints, lay private informations or otherwise institute civil or criminal proceedings in Austrian courts, the said proceedings shall be governed by the provisions generally applicable, subject to the proviso that no means of coercion (penalties for breach of discipline, disorderly conduct, etc.) may be employed.

Article 27. Criminal informations against persons enjoying extritorial status shall be referred to the Federal Ministry of Justice for transmission to the Federal Chancellery of Foreign Affairs in accordance with article 2, paragraph 2, of the Act of 5 February 1919, *Staatsgesetzblatt* No. 87.¹ If a person enjoying extritorial status is arrested, he shall forthwith be brought before the political authority of first instance, or, in places where there is a federal police office, before that office, for official action as prescribed by article 61 of the Code of Criminal Procedure.

Article 28. (1) The courts shall not communicate directly with persons enjoying extritorial status.

(2) If a person enjoying extritorial status has appointed an agent to represent him in court or to accept service of documents on his behalf, summonses and other documents may be served directly upon the said agent. In all other cases the documents to be served shall be delivered to the Federal Ministry of Justice for transmission.

(3) The same procedure shall be followed in the service of documents upon any person staying in the residence of a person enjoying extritorial status.

Article 29. (1) If testimony is to be taken from a person enjoying extritorial status, the Federal Ministry of Justice shall be advised accordingly, with particulars of the parties, the subject of the evidence and the date on which the said person is to testify (if at all). The Ministry shall

¹ *Act of 5 February 1919 to transfer to the ordinary courts the jurisdiction formerly vested in the Office of the Lord Marshal*

Article 1. (1) The jurisdiction formerly vested in the Office of the Lord Marshal by virtue of article III of the Act to establish rules governing jurisdiction (Act of 1 August 1895, *Reichsgesetzblatt* No. 110) and of article 5 of the Imperial Order of 19 July 1916, *Reichsgesetzblatt* No. 223, shall be exercised by the ordinary courts in accordance with the procedure laid down for the said courts.

(2) The provisions under which persons enjoying extritorial status by virtue of the principles of international law are subject to Austrian jurisdiction only if and in so far as they voluntarily submit to the jurisdiction of the Austrian courts (article IX of the Act to establish rules for jurisdiction) shall be maintained in force.

Article 2. (1) Documents shall not be served upon persons enjoying extritorial status, nor shall court orders be executed upon them, nor shall court decisions be enforced at their residence, otherwise than through the Federal Chancellery of Foreign Affairs.

(2) Charges brought under article 61 of the Code of Criminal Procedure (Act of 23 May 1873, *Reichsgesetzblatt* No. 119) shall likewise be communicated to the Federal Chancellery of Foreign Affairs.

Article 3. (1) Pending cases shall, unless they are to be tried by a court of superior jurisdiction, be referred to the District Court, Urban Division, for completion.

arrange for the said person to be invited either to be present in court at the specified time for the purpose of testifying, or to state whether he is prepared to make a statement before a committee delegated by the court to take his testimony, or to make a statement in writing on the matter on which he is to be questioned.

(2) Except in cases of extreme urgency the date fixed for the taking of testimony shall be such as to allow a period of not less than three weeks to elapse between the advice to the Ministry and the taking of the testimony.

Article 30. (1) If a person enjoying extritorial status appears in court, arrangements shall be made to ensure that his testimony is taken without delay.

(2) If a person enjoying extritorial status declares that he is prepared to make a statement before a committee appointed by the court, the testimony shall be taken in proceedings in court by a judge appointed for the purpose. The parties shall not, however, be present when the testimony is taken.

Article 32. Consular representatives do not enjoy the privilege of extritoriality. Except as otherwise provided by special agreement they shall be subject to Austrian civil and criminal jurisdiction in the same way as other private persons and shall likewise be under a duty to appear in person in response to a subpoena. Consular archives and official documents shall, however, be inviolate and immune from any investigation or confiscation whatsoever.

(c) COURT DECREE OF 23 SEPTEMBER 1817

By virtue of the provisions of the Instruction of 31 August 1762 all consuls of foreign Powers, whether they are Austrian or foreign nationals, shall be subject to the jurisdiction and laws of the place in which they are authorized to reside.

B. CIVIL JURISDICTION

(a) ACT OF 1895 TO ESTABLISH RULES GOVERNING JURISDICTION

Article 9. (2) Persons enjoying extritorial status by virtue of the principles of international law shall be subject to Austrian jurisdiction if and in so far as they voluntarily submit to the jurisdiction of the Austrian courts, or their immovable assets in Austria or their real rights in the immovable property of others in Austria are the subject of legal proceedings.

(b) GENERAL CIVIL CODE OF 1811

Article 38. Representatives, public ministers and persons employed by them enjoy the exemptions laid down by international law and in public treaties.

(c) DECREE OF 1951 CONCERNING LEGAL REDRESS IN CIVIL CASES

Article 27. (1) If testimony is to be taken from a person enjoying extritorial status, the Federal Ministry of Justice shall be advised accordingly, with particulars of the case, the subject of the evidence and the date on which the said person is to testify. Except in cases of extreme urgency the date fixed for the taking of the testimony shall be such as to allow a

period of not less than three weeks to elapse between the date of the advice to the Federal Ministry of Justice and the date on which the testimony is to be taken.

(2) On being advised pursuant to paragraph (1), the Federal Ministry of Justice shall arrange for the person enjoying extrterritorial status to be asked whether he is prepared:

- (a) To be present in court at the specified time; or
- (b) To testify outside the precincts of the court and, if so, where and when he is prepared to do so and whether he agrees that the parties should be present when he gives his testimony;
- (c) To make a statement in writing on the matter on which he is to be questioned.

(3) The cancellation of any session or proceedings to which a person enjoying extrterritorial status has been summoned for the purpose of testifying shall be reported immediately to the Federal Ministry of Justice by telephone, telegraph or messenger.

Article 28. (1) If a person enjoying extrterritorial status declares that he is prepared to testify outside the precincts of the court, the time of the testimony shall so far as possible be arranged to suit his convenience. If the court is unable to make suitable arrangements, the Federal Ministry of Justice shall be notified accordingly.

(2) The parties may only be present if the person enjoying extrterritorial status has consented to their presence.

Article 29. If a person enjoying extrterritorial status declares that he is prepared to make a statement in writing on the matter on which he is to be questioned, and if the court considers the taking of testimony in such form to be permissible in the particular case, the court shall deliver to the Federal Ministry of Justice, for transmission, a list of the questions and, where appropriate, a statement of the facts.

(d) ORDER CONCERNING THE LEVY OF EXECUTION

Article 31. (1) Execution must not be levied at the residence of a person enjoying extrterritorial status in Austria otherwise than by the Federal Ministry of Justice, acting through the Foreign Office.

(e) DECREE OF 1932 CONCERNING LEGAL REDRESS

Article 32. Consular representatives enjoy, in court proceedings, the privileges laid down in agreements between States. They do not enjoy the privileges of extrterritoriality. Consular archives and official documents shall, however, be inviolate and immune from any investigation or confiscation whatsoever.

(f) COURT DECREE OF 23 SEPTEMBER 1817 (SEE ABOVE IA (c))

NOTE. In so far as Austrian law contains no special provision concerning the exemption of persons enjoying extrterritorial status from Austrian jurisdiction, the position of such persons in this respect is governed in Austrian territory, by virtue of the Federal Constitution Act of 1920, by the generally recognized rules of international law.

(g) FEDERAL CONSTITUTION ACT, 1920

Article 9. The generally recognized rules of international law constitute an integral part of Federal law.

II. TAX EXEMPTIONS ENJOYED BY MEMBERS OF FOREIGN
DIPLOMATIC AND CAREER CONSULAR
MISSIONS IN AUSTRIA

(a) ACT OF 16 OCTOBER 1934 CONCERNING LIABILITY TO TAXATION

Article 9. Persons, associations of persons, corporations and estates shall be exempt from income and property tax in so far as they are entitled to such exemption by virtue of:

1. The general principles of international law on a basis of reciprocity, or
2. Agreement with other States.

(b) FEDERAL ACT OF 30 JUNE 1955 CONCERNING THE LEVY OF A TAX ON THE ACQUISITION OF IMMOVABLE PROPERTY (IMMOVABLE PROPERTY ACQUISITION TAX ACT, 1955), BUNDESGESETZBLATT 140/55

Article 4. (1) The tax shall not be chargeable:

7. In the case of the acquisition of immovable property on behalf of a foreign official mission, if the property is acquired by a foreign State for the use of its official missions abroad, provided that reciprocity is observed.

(c) FEDERAL ACT OF 13 JULY 1955 CONCERNING THE IMMOVABLE PROPERTY TAX (IMMOVABLE PROPERTY TAX ACT, 1955), BUNDESGESETZBLATT No. 149/55

Article 2. The immovable property tax shall not be chargeable on:

10. The immovable property of a foreign State which is used for the purposes of the said State's embassies, missions or consulates, provided that reciprocity is observed.

Article 3. (1) The benefit of article 2, paragraphs 1 to 8 and paragraph 10, does not extend to immovable property which is used for residential purposes or to the yards and gardens appertaining thereto. Nevertheless, the said benefit extends to immovable property which comes within any of the categories specified in paragraphs 1 to 6 below. Subject to the more general conditions stipulated in article 2, the immovable property shall therefore not be chargeable on:

6. The immovable property of a foreign State which is used as housing for the officials and employees of the foreign mission.

(d) FEDERAL ACT OF 16 JUNE 1948 CONCERNING THE RECONSTRUCTION OF DWELLINGS DAMAGED OR DESTROYED IN WAR AND THE REPLACEMENT OF DESTROYED FURNITURE (HOUSING RECONSTRUCTION ACT), BUNDESGESETZBLATT No. 130/48

Article 2. The provisions of this Federal Act shall not apply to:

(b) Dwellings owned or occupied by a foreign State or by the Head of a foreign State, by members of foreign diplomatic missions, or by other

persons recognized as enjoying extraterritorial status; this provision shall likewise apply to dwellings owned or occupied by foreign consular missions or by commissions appointed under State treaties which are not entitled to extraterritorial status, provided that the personnel thereof are employed solely for the purposes of such body and are nationals of the accrediting State. This provision shall not affect anything in a State treaty which provides otherwise;

- (e) ACT OF 16 DECEMBER 1921 CONCERNING THE LEVY OF A COMMUNAL TAX ON THE KEEPING OF DOGS IN THE CITY OF VIENNA (LANDESGESETZBLATT No. 156/21)

Article 3. (1) The following persons shall be exempt from the tax:

. . .

2. Persons who are exempt from taxation by virtue of State treaties or of the principles of international law.

- (f) FEDERAL ACT OF 25 JULY 1946 CONCERNING STAMP DUTY AND COURT CHARGES (FEES AND CHARGES ACT, 1946), BUNDESGESETZBLATT No. 184/46

Article 2. The following persons shall be exempt from duties and charges:

. . .

4. Nationals of foreign States serving as the envoys of foreign Powers, in respect of documents executed by them personally or by their authorized agents or representatives, provided that the said documents do not relate to legal transactions concerning immovable property in Austria or to claims affecting such property.

Article 14, tariff item 9, Note:

Diplomatic passports, service passports and frontier passes (article 22 of the Passport Act, *Staatsgesetzblatt* No. 180/45, as amended) and, subject to reciprocity, diplomatic visas and service visas, shall be issued without charge.

- (g) PASSPORT ACT, 1951, BUNDESGESETZBLATT No. 57

Article 22. Diplomatic and service passports and, subject to reciprocity, diplomatic visas and service visas, shall be issued without charge.

Article 14, tariff item 14: Certificates . . .

A fee shall not be chargeable in respect of:

. . .

(p) Extracts from baptismal registers and from registers of births, marriages and deaths, and certificates of birth, marriage and death, which are applied for through the diplomatic channel by foreign authorities through Austrian missions abroad or through foreign representatives in Austria, if reciprocity is observed and if the extracts or certificates in question are intended for use abroad.

- (h) FEDERAL ACT OF 8 JULY 1953 CONCERNING THE LEVY OF AN INSURANCE TAX (INSURANCE TAX ACT, 1953), BUNDESGESETZBLATT No. 133/53

Article 4. (1) The insurance tax shall not be chargeable on the payment of insurance premiums [in the following cases]:

. . .

(2) The insurance tax shall likewise not be chargeable on the payment of an insurance premium directly to a foreign insurer through a diplomatic or consular mission accredited in Austria or through the members or other personnel of such mission, provided that the said persons are nationals of the accrediting State and either are not subject to Austrian jurisdiction or, as career officials, do not engage in any gainful activity in Austria outside their official duties. The tax shall, however, be chargeable if the insurance premium is paid to an Austrian representative of the foreign insurer.

- (i) FEDERAL ACT OF 27 MAY 1952 CONCERNING THE LEVYING OF A TAX ON MOTOR VEHICLES (MOTOR VEHICLES TAX ACT, 1952), BUNDESGESETZBLATT No. 110/52

Article 2. (1) The tax shall not be chargeable on:

. . .

9. Motor vehicles belonging to persons who are exempted from taxation by virtue of State treaties, declarations of reciprocity or the general principles of international law relating to taxation, or by virtue of *de facto* reciprocity of treatment.

- (j) FEDERAL ACT OF 15 JUNE 1955 CONCERNING CUSTOMS AND CUSTOMS PROCEDURE (CUSTOMS ACT, 1955), BUNDESGESETZBLATT No. 129/55

Article 40. Exemption from import duties shall be granted in respect of:

(a) Goods required for official purposes, office supplies, fuel and fixtures for official premises, if the goods in question are intended for the exclusive use of the diplomatic missions and consular offices of foreign States in the territory within the competence of the Austrian customs authorities.

(b) Goods imported for the personal use of foreign diplomatic persons accredited to the Austrian Federal Government (chiefs of mission, counsellors of embassy, secretaries of legation and attachés) and of their families; this provision applies also to goods imported for consuls *de carrière* (consuls-general, consuls and vice-consuls) and their families. The exemption from customs duties in respect of motor vehicles extends, however, only to the above-mentioned diplomatic persons and consuls *de carrière*, and not to their families, and is restricted to the importation of two motor vehicles every two years. If, however, before the expiry of the said two-year period a motor vehicle admitted free of duty is re-exported, or the duty on the vehicle is paid, or the vehicle is proved to have been seriously damaged, then another motor vehicle may be imported free of duty in its stead. If, before the expiry of two years from the date on which it was admitted duty-free as the property of a person with diplomatic or consular status, a motor vehicle is to be transferred or otherwise delivered, whether for valuable consideration or not, to some other person for his use, then the customs duty

shall be paid before the transfer takes place; but this provision shall not apply, however, in the event of the recall or death of the diplomatic representative or consul *de carrière* in question before the expiry of the said period, or if the motor vehicle has been seriously damaged. The foregoing rules shall also be applied, *mutatis mutandis*, in cases in which the sending State provides its diplomatic and consular representatives or missions with official motor vehicles.

Article 172. (8) On presentation of their diplomatic passes, and provided that they make a declaration to the effect that they are not carrying with them any dutiable or prohibited goods, the diplomatic personnel and consuls *de carrière* mentioned in article 40, and members of their families, shall, on crossing the frontier, be exempt from customs inspection of their accompanying luggage and hand luggage. This provision shall apply on the occasion of their crossing the frontier for the purpose of taking up their appointment in Austria or on being recalled. If, however, there is reason to suspect a contravention of the customs regulations, the luggage may be inspected by the customs authorities.

(9) Provided that it is officially sealed in the prescribed manner, the official luggage of diplomatic couriers shall be cleared through customs without inspection if the nature, number and bulk of the packages and the address correspond to the description given in the list, which the courier must produce, prepared by the consigning authority.

Article 3. (1) On the occasion of the import and export of goods charges shall be levied, as more particularly specified in the provisions concerning customs tariffs, in the form of import duties and export duties. In addition to the customs duties, other charges shall be levied by the customs authorities as prescribed in the relevant fiscal legislation. Any reference in this Act to charges leviable on the import or export of goods shall be construed as a reference to the said duties and the other fiscal charges mentioned above.

(2) The provisions of this Act shall be applicable *mutatis mutandis* to any other charges, additional to duties, that are leviable pursuant to paragraph (1), save as otherwise provided in this Act or in the relevant fiscal legislation.

NOTE. In so far as Austrian law contains no special provision concerning the exemption of foreign diplomatic representatives and consuls *de carrière* in Austria from the payment of duties, the position of such persons in this respect is governed in Austria by the generally recognized rules of international law.

(k) FEDERAL CONSTITUTION ACT, 1920 (SEE ABOVE IB (g))

III. IMMUNITY OF PERSONS ENJOYING EXTERRITORIAL STATUS FROM CONSTRAINT BY THE ADMINISTRATIVE AUTHORITIES IN AUSTRIA

(a) ADMINISTRATIVE PENALTIES ACT, 1950

Article 45. (1) The authority shall not institute or continue penal proceedings, and shall order such proceedings discontinued, if . . .

(c) there are circumstances which bar prosecution.

(b) PASSPORT ACT, 1951, BUNDESGESETZBLATT No. 57

Article 10. (1) Except as otherwise provided under international agreements or by order of the Federal Ministry of the Interior, foreign nationals and stateless persons must, both on crossing the frontier and during their residence in the Federal territory, prove their identity by means of a valid passport or document in lieu of a passport.

(2) Foreign passports which do not conform to the international standard model shall be recognized only if they fulfil the following conditions:

(a) The passport must state the holder's nationality.

(b) The passport must contain a personal description of the holder and also a recent photograph of the holder, with the holder's own signature underneath; the photograph must be affixed to the passport itself and must bear an official stamp.

(c) Passports in the form of booklets must not have supplementary pages inserted; where supplementary pages have to be attached to single-sheet passports, the supplementary pages must be certified and attached by the authorities in such a way as to prevent improper use.

(3) Foreign family passports shall be recognized to the same extent as Austrian family passports.

(4) The provisions of paragraph 2, (b) and (c), shall not be applicable to foreign diplomatic passports.

. . .

Article 22. (See above, II (g)).

(c) MOTOR VEHICLES ACT, 1955

Article 49. (2) Nothing herein contained shall affect the right of foreign diplomatic and consular missions and their staff, pursuant to State treaties of the generally recognized rules of international law, to display their national emblems.

(3) Motor vehicles which are in constant use by members of diplomatic missions accredited to the President of the Federal Republic, or by persons of equivalent status, may carry, in addition to their licence plates, the sign CD (*Corps Diplomatique*) in an appropriate place. For the purposes of this Act, the expression "members of diplomatic missions accredited to the President of the Federal Republic" means, to the exclusion of all other persons, chiefs of mission, counsellors of legation, secretaries of legation and attachés and persons of equivalent status.

Article 50. (1) Once every calendar year, arrangements must be made for the Individual Inspection Board (*Einzelprüfungskommission*), under article 104, or the Federal Motor Vehicles Testing Institution (*Bundesversuchsanstalt für Kraftfahrzeuge*), to inspect motor vehicles and trailers so that it can satisfy itself whether the particular vehicle still satisfies the conditions subject to which it was licensed. If so, the inspecting body gives a certificate. On the first occasion, all motor vehicles and trailers used for the conveyance of persons for hire, and the motor vehicles and trailers referred to in article 76, must be inspected one year, and all other motor vehicles and trailers three years, after first being licensed. If no evidence is produced to show when the vehicle was first licensed, the authorities decide when the first inspection is to be made. If a motor vehicle or trailer has been deregistered for more

than four months, the inspection may, at the request of the owner, be postponed for a corresponding period. An exemption from this periodic inspection is granted in respect of motor vehicles belonging to the Federal Republic, to the *Länder*, to associations of municipalities (*Ortsgemeindenverbände*), to municipalities with more than 50,000 inhabitants and undertakings managed by these under their own liability, and to the motor vehicles departments of the Austrian Federal Railways; and also in respect of motor vehicles belonging to persons enjoying extraterritorial status, to consuls *de carrière* of foreign States or to consular officials attached to their offices, unless they are Austrian nationals.

Article 53. (1) Every licensed motor vehicle and trailer which is operated from a permanent address or place of business in Austria, or which is used on a trial run or delivered in Austria, in the circumstances described in articles 46 and 47, must be covered by a motor vehicle liability insurance policy issued by an insurance undertaking authorized in Austria to issue such policies.

(2) Exemption from the obligation to insure is granted in respect of motor vehicles and trailers belonging to the Federal Republic, to the *Länder*, to associations of municipalities, to municipalities with more than 50,000 inhabitants and undertakings managed by these under their own liability, and to the motor vehicle departments of the Austrian Federal Railways; and also in respect of motor vehicles belonging to persons enjoying extraterritorial status, to consuls *de carrière* of foreign States and to consular officials attached to their offices, unless they are Austrian nationals.

Article 63. Subject to reciprocity, and provided that there are no objections based on considerations of road safety, an Austrian driving licence is issued to a member of the diplomatic corps and to a consul *de carrière* of a foreign State if he can produce a valid foreign driving licence.

(d) ORDER OF 23 JANUARY 1933 CONCERNING FOREIGN WORKERS

Article 1. (1) For the purpose of employing foreign workers, an employer must obtain special authorization (employment authorization). He may not employ any such worker who is not in possession of a permit to work.

(2) For the purpose of carrying on an occupation, a foreign worker must obtain a special permit (permit to work).

Article 2. The regulations relating to foreign workers are applicable to all persons over the age of fifteen years who are not Austrian nationals and who are employed in Austria as wage-earning or salaried employees, except . . .

5. Persons employed by the chiefs or members of diplomatic missions or by the offices of consuls *de carrière* accredited or admitted to Austria.

NOTE. In so far as Austrian law contains no special provision concerning the immunity of persons enjoying extraterritorial status from constraint by the administrative authorities, the position of such persons in this respect is governed in Austria, by virtue of the Federal Constitution Act, by the generally recognized rules of international law.

(e) FEDERAL CONSTITUTION ACT, 1920 (SEE ABOVE IB (g))

Belgique ¹

a) AIDE-MÉMOIRE CONCERNANT LES DROITS, PRIVILÈGES ET PRÉROGATIVES DONT JOUISSENT LES AGENTS DIPLOMATIQUES ET CONSULAIRES ÉTRANGERS EN BELGIQUE

1. Les droits, privilèges et prérogatives dont jouissent les agents diplomatiques de tous grades accrédités en Belgique se divisent en deux parties :

1° Les prérogatives absolues qui peuvent se résumer d'une façon concise en deux mots : inviolabilité et indépendance.

2° Celles qui sont moins fondées sur le caractère public des agents diplomatiques que sur des considérations de courtoisie et d'hospitalité : les exonérations fiscales. Le principe de la réciprocité absolue est à la base de celles-ci.

2. L'immunité de juridiction, qui découle de l'inviolabilité et de l'indépendance des ministres publics, est reconnue non seulement aux chefs de mission, conseillers, secrétaires, attachés, etc., mais aussi au personnel des chancelleries diplomatiques, ce personnel étant considéré comme faisant partie de la suite *officielle* des ministres.

3. En ce qui concerne la suite non-officielle, et particulièrement les gens de service, on s'est rallié, en Belgique, à l'opinion des auteurs du droit international public qui leur refusent toute immunité. En effet, les raisons qui militent en faveur de l'immunité de juridiction reconnue au chef de mission et à sa suite officielle, perdent toute leur force quand il s'agit de son personnel non-officiel.

4. Le point de vue admis en Belgique est celui exposé dans la *Revue de droit international* (3^e série, 1-1899, p. 360) :

« Un représentant diplomatique qui se verrait, à chaque instant harcelé par des poursuites de la justice locale contre les personnes qui vivent sous sa dépendance, serait gêné dans l'accomplissement de ses devoirs officiels ; mais, d'autre part, il manquerait à la loyauté qu'il doit à l'État de sa résidence, s'il permettait, sous l'égide de ses immunités, à ces personnes de commettre des actes répréhensibles ou passibles de répression. Dans de telles occasions, si le délinquant a un rang officiel dans la mission, son chef doit s'adresser à son gouvernement pour que celui-ci prenne la détermination qu'exigent les circonstances. En cas d'urgence, l'agent diplomatique peut même remettre le coupable à la garde des autorités du pays jusqu'à l'arrivée des instructions de son gouvernement. *Si le délinquant n'a pas de caractère officiel dans la mission, il doit être remis à la justice locale.* »

5. Toutefois et quel que soit le caractère absolu de l'opinion qui prévaut en Belgique, la courtoisie doit toujours présider aux relations entre les représentants diplomatiques étrangers et les autorités locales.

6. C'est pour cette raison que le ministère public doit toujours recourir à la voie diplomatique pour citer en justice ou obtenir la livraison d'une personne au service d'un diplomate étranger ².

¹ Le texte des documents reproduit ci-après a été fourni par le Ministère des affaires étrangères et du commerce extérieur de la Belgique.

² Le droit d'asile n'est pas reconnu : le chef de mission devrait, à la demande des autorités compétentes, livrer les personnes ne bénéficiant pas des immunités, qui se seraient réfugiées dans l'hôtel de l'ambassade ou de la légation.

La loi du 12 mai 1927 (art. 8, A 1° et B 1°) et l'arrêté royal du 19 octobre 1928 exemptent les membres du corps diplomatique accrédités en Belgique des prestations militaires de toute nature.

7. Les agents consulaires, qu'ils soient de carrière ou honoraires, ne jouissent en Belgique, *en principe*, d'aucune immunité ni d'aucun privilège en matière judiciaire; ils sont civilement responsables du personnel qu'ils emploient notamment de leurs chauffeurs.

8. Ces agents bénéficient cependant, *sous certaines conditions, de quelques immunités judiciaires qui sont définies dans des conventions consulaires conclues entre la Belgique et les pays qu'ils représentent ou qui sont reconnues par des usages internationaux.*

9. D'après les conventions consulaires actuellement en vigueur entre la Belgique et plusieurs pays étrangers, les chefs de poste consulaire et les fonctionnaires du service consulaire sont soumis, dans les mêmes conditions que les nationaux, tant en matière civile qu'en matière criminelle, à la juridiction des tribunaux de l'État de leur résidence, sauf en raison des actes de leurs fonctions accomplis par eux dans les limites des attributions qui leur sont reconnues par ces conventions.

10. Les agents visés ne peuvent être mis en état d'arrestation ou d'emprisonnement préventif, excepté pour les infractions punissables d'un emprisonnement d'un an au moins ou d'une peine plus grave.

11. En cas de poursuite judiciaire, d'arrestation ou de mise en accusation d'un chef de poste consulaire ou d'un fonctionnaire du service consulaire, le gouvernement de l'État sur le territoire duquel la poursuite est intentée, l'arrestation ou la mise en accusation a eu lieu, en informe le représentant diplomatique de l'État dont relève l'agent mis en cause.

12. Les agents consulaires sont tenus de comparaitre, le cas échéant comme témoins devant les tribunaux et les magistrats compétents de l'État de leur résidence ou de donner leur témoignage par écrit; ils peuvent obtenir la remise de leur comparution à une date ultérieure, rapprochée en faisant valoir des motifs légitimes (maladie, nécessité de service, etc.). Ils peuvent également, en opposant le secret d'État ou le secret professionnel, se refuser à déposer sur des faits ayant trait à l'exercice de leurs fonctions ou à produire ou à se dessaisir des papiers, documents ou registres dont ils sont détenteurs. Les difficultés qui pourraient surgir à cette occasion doivent être réglées par la voie diplomatique.

13. Les archives consulaires sont inviolables, mais elles doivent toujours être complètement séparées des documents privés ainsi que les livres et papiers relatifs au commerce ou à l'industrie que pourraient exercer les agents honoraires.

14. Les locaux officiels des postes consulaires de carrière sont également inviolables, mais ces locaux ne peuvent, en aucun cas, servir de lieu d'asile.

b) MÉMORANDUM SUR LE RÉGIME FISCAL, DOUANIER, ETC., APPLICABLE AUX MEMBRES DU CORPS DIPLOMATIQUE ACCRÉDITÉS EN BELGIQUE

A. — IMPÔTS

Conformément aux principes du droit des gens, les diplomates étrangers en Belgique sont exonérés de la majeure partie des impôts d'État. Ces exonérations ne sont cependant accordées que sous réserve de réciprocité et si les bénéficiaires nommés par le Gouvernement accréditant, font véritablement partie de l'ambassade ou de la légation, lui appartiennent d'une façon

exclusive ou prépondérante, mais non pas, si, résidant dans le pays, ils n'exercent des fonctions auprès de la mission diplomatique qu'accessoirement ou provisoirement.

Sont rangés dans cette catégorie, les chefs de mission, les conseillers, les secrétaires, les attachés, les chancelliers et employés de chancellerie, les interprètes et les drogmans, les plénipotentiaires, les attachés militaires et commerciaux, les conseillers ou attachés juristes, les aumôniers et les médecins.

Impôts sur les revenus

Les lois relatives aux impôts sur les revenus, coordonnées par l'arrêté royal du 6 août 1931, ont établi, en remplacement de la contribution foncière, de la contribution personnelle sur la valeur locative, les portes et fenêtres et le mobilier, du droit de patente et de la taxe sur les revenus et profits réels, des impôts cédulaires sur les revenus de toutes catégories et un impôt complémentaire personnel.

Sont assujettis à l'impôt:

1° Les revenus de tous les biens immobiliers ou mobiliers produits ou recueillis en Belgique, alors même que le bénéficiaire n'y aurait pas son domicile ou sa résidence;

2° Les revenus des personnes domiciliées ou résidant en Belgique, alors même que les revenus seraient produits ou recueillis à l'étranger.

Les revenus imposables sont répartis en trois catégories:

1° Revenus de propriétés foncières bâties et non bâties

Les lois fiscales citées plus haut exemptent du paiement de l'impôt foncier les hôtels occupés par les agents diplomatiques pour autant que ces immeubles appartiennent à l'État qu'ils représentent et soient le siège de leur ambassade ou de leur légation. Les revenus des autres biens immobiliers, recueillis en Belgique par les diplomates étrangers, sont frappés d'une contribution foncière déterminée d'après le revenu moyen normal net d'une année. Ce revenu s'établit à la suite d'une expertise parcellaire par voie de comparaison avec des immeubles de même nature et d'un rendement analogue pris comme types. L'expertise est effectuée en tenant compte soit du revenu locatif, soit de la valeur vénale et du taux moyen du rendement locatif.

2° Revenus des capitaux mobiliers

Les agents diplomatiques sont exemptés de toute déclaration et de toute taxe du chef de revenus de rentes et valeurs mobilières étrangères, de créances sur l'étranger ou de sommes d'argent déposées à l'étranger. Cette exemption leur est consentie parce qu'en vertu du principe de l'exterritorialité les dits agents ne peuvent être considérés comme résidant ou étant domiciliés dans le pays.

L'exonération s'étend également aux produits de la location, de l'affermage, de l'usage et de la concession de tous biens mobiliers.

Elle s'applique aussi aux revenus des biens immobiliers situés à l'étranger

Les revenus des titres émis par l'État, les provinces, les communes et autres organismes ou établissements publics, de même que ceux provenant de dépôts effectués à la Caisse générale d'épargne et de retraite sont soumis à la taxe mobilière. Toutefois, sur production d'un relevé trimestriel, le

Département des finances autorise la restitution des taxes mobilières perçues à la source, par voie de retenue, sur les dépôts en banque et les titres de rentes belges, lorsque ces placements sont effectués par les agents diplomatiques pour le compte et au profit du gouvernement qu'ils représentent.

Les autres revenus des diplomates, actions, obligations ou autres créances de prêts à charge des sociétés belges par actions, sont astreints au paiement de la taxe mobilière. Cette taxe est réduite pour la partie des revenus des actions ou parts quelconques dans les sociétés par actions, qui correspond proportionnellement aux bénéfices réalisés et imposés à l'étranger ou dans la colonie. Les bénéfices résultant de participations dans des affaires industrielles ou commerciales belges, de créances ou prêts à charge de personnes physiques ou morales résidant ou domiciliées en Belgique, sont également imposés. Ceux provenant de placement de sommes d'argent dans des établissements de banque, de change, de crédit, etc., subissent également la taxe mobilière. Cependant, si ces placements sont effectués pour le compte et au profit du gouvernement représenté, la restitution de la taxe prélevée est, comme il a été dit déjà, autorisée par le Département des finances sur production d'un relevé trimestriel.

3° *Revenus professionnels*

Les rémunérations diverses relatives aux fonctions diplomatiques, ainsi que tous salaires, pensions et rentes viagères des diplomates sont exonérés de la taxe professionnelle. Cette exonération est étendue aux autres profits, quelle que soit leur dénomination, résultant de professions libérales, charges ou offices ou de toutes occupations lucratives.

Les autres ressources provenant d'exploitations industrielles, commerciales ou agricoles quelconques et recueillies en Belgique par les agents diplomatiques, y compris les bénéfices résultant de leur travail personnel en qualité d'associés dans les sociétés civiles ou commerciales, sont soumises au paiement de la taxe professionnelle.

Les ressources de même nature recueillies à l'étranger par les agents diplomatiques sont exemptées de la taxe.

Impôt complémentaire personnel. — Les agents diplomatiques sont exemptés du paiement de l'impôt complémentaire personnel.

Impôt sur le mobilier. — Les agents diplomatiques sont exemptés du paiement de l'impôt sur le mobilier.

Droit de succession et de mutation par décès

A raison de la fiction de l'exterritorialité, les successions ouvertes par le décès d'agents diplomatiques accrédités en Belgique, sont exonérées du droit de mutation par décès. Leurs héritiers ou légataires ne sont redevables de ce droit que sur la valeur des immeubles situés en Belgique, ce droit ayant le caractère d'un impôt indirect.

En ce qui concerne les successions recueillies par les membres du corps diplomatique étranger, elles donnent lieu à la perception de l'impôt comme les successions dévolues à toutes autres personnes.

D'autre part, les successions ouvertes par le décès d'agents consulaires de carrière ou recueillies par ceux-ci, ne bénéficient dans notre pays d'aucune exonération du droit de transmission par décès, celui-ci ayant le caractère d'un impôt indirect.

B. — TAXES DIVERSES

Taxe de luxe. — Les agents diplomatiques sont exemptés du paiement de la taxe de luxe.

L'exemption sera subordonnée à la double condition: 1) que les objets soient livrés par le fournisseur au siège de la mission diplomatique; 2) que cette livraison soit constatée par un certificat délivré au fournisseur par le chef de mission ou par son délégué et revêtu du sceau de celle-ci. Ce certificat peut être rédigé sur papier non timbré.

Taxe de facture. — La même exemption s'applique, aux conditions susdites, à la taxe de facture exigible sur les contrats d'entreprise d'ouvrage en général et à la taxe de luxe due sur certains de ces contrats. Pour obtenir l'exonération de la taxe de facture sur les contrats de transports, la firme chargée de l'opération doit obtenir un certificat signé par le chef de mission constatant que l'opération est faite pour le compte d'un membre de sa mission.

Taxe de transmission. — Il en est de même, en ce qui concerne cette taxe, que pour la taxe de luxe.

Taxe sur les locations mobilières. — Les agents diplomatiques en sont exemptés.

Droit de timbre et d'enregistrement. — Les agents diplomatiques ne jouissent d'aucune immunité en matière de droit de timbre.

Toutefois, les actes passés par les agents diplomatiques dans l'exercice même de leurs fonctions et par délégation de leur gouvernement, étant réputés faits à l'étranger, ne sont passibles des droits de timbre que lorsqu'il en est fait usage dans le pays.

Les mêmes règles sont applicables au droit d'enregistrement qui, tout autant que le droit de timbre, a le caractère d'un impôt indirect.

Il s'ensuit que les billets à ordre et les lettres de changes tirées par un gouvernement étranger au profit de ses agents diplomatiques en Belgique sont soumis à l'impôt.

Il en est de même en ce qui concerne les traites, payables dans le pays, émises par les représentations diplomatiques et consulaires en Belgique.

Droits d'enregistrement et de transcription de mutation. — Le Gouvernement belge reconnaît les acquisitions immobilières opérées sur son territoire par les gouvernements étrangers pour l'installation de leurs agents diplomatiques. Ces acquisitions sont passibles (qu'il y ait ou non réciprocité) des droits d'enregistrement et de transcription de mutation à l'égal des ventes ordinaires d'immeubles sis en Belgique.

Taxes de salubrité publique. — Les immeubles appartenant aux gouvernements étrangers et qui sont, en Belgique, le siège de leur légation, ne sont pas exonérés du paiement des taxes de salubrité publique.

Il s'agit notamment de la taxe de voirie, destinée à indemniser les pouvoirs publics des dépenses spéciales relatives à des travaux d'hygiène et de voirie.

Taxe sur les automobiles. — La loi du 2 septembre 1913 avait établi, au profit de l'État, une taxe annuelle sur les automobiles et autres véhicules à moteur. Cette taxe revêtant la forme d'une contribution personnelle, les membres du corps diplomatique étranger en étaient exonérés.

Une loi du 28 mars 1923, modifiée depuis, a cessé d'assimiler cette taxe à la contribution personnelle, pour lui attribuer le caractère d'un impôt de

compensation pour les frais de construction et d'entretien des routes. L'exemption en a toutefois été maintenue en faveur des diplomates accrédités en Belgique.

Taxes sur les domestiques, chevaux et voitures, chiens et vélocipèdes. — Les membres du corps diplomatique étranger en Belgique sont exonérés du paiement des taxes provinciales ou communales, celles-ci étant essentiellement des contributions personnelles.

Adresses télégraphiques. — Les adresses télégraphiques utilisées par les agents diplomatiques ne bénéficient pas de la gratuité en Belgique. En effet, la taxe à laquelle elles sont soumises étant une taxe d'enregistrement, les diplomates n'en sont pas exonérés.

Postes récepteurs radio-électriques. — Les membres du corps diplomatique accrédités à Bruxelles sont exonérés d'une façon générale du paiement des redevances pour postes récepteurs radio-électriques à la condition que l'autorisation préalable de détention d'un poste de l'espèce soit sollicitée par l'entremise du Ministère des affaires étrangères et du commerce extérieur.

Port d'armes de chasse. — Le droit qui le frappe constituant un impôt personnel ne pèse pas sur les diplomates étrangers.

Permis de pêche. — Même exonération que pour le port d'armes de chasse.

C. — CHANGE

L'arrêté royal du 17 mars 1935, portant réglementation de l'importation, de l'exportation et du transit des valeurs interdit d'acheter au comptant ou à terme des devises étrangères, sauf pour payer le montant de matériel ou marchandises importés effectivement en Belgique, à l'exclusion de toute valeur constituant un placement à court ou long terme à l'étranger.

Il interdit également à qui que ce soit d'expédier ou transporter hors de Belgique des marchandises, des titres, des coupons ou des espèces dont la contre-valeur ne ferait pas l'objet d'une remise en Belgique de francs ou de devises étrangères.

De même, les titulaires d'un compte courant en banque ouvert soit en francs, soit en monnaie étrangère, ne peuvent émettre aucun chèque sur leur compte destiné à être négocié à l'étranger, ni mettre leur avoir à la disposition de personnes résidant hors de Belgique si ce n'est pour liquider des dettes résultant d'opérations commerciales dûment établies.

Ces dispositions n'entravent en rien les envois ou transferts de fonds que les membres du corps diplomatique désirent effectuer pour des motifs personnels légitimes ou pour des besoins de service tels que la transmission de taxes consulaires etc.

Comme il aurait été malaisé de tracer des instructions précises à ce sujet à toutes les banques du pays, il a été entendu que le Département des finances interviendra auprès des établissements de crédit chaque fois que des diplomates éprouveraient quelque difficulté pour l'exécution de leurs ordres bancaires.

D. — DOUANES

Une circulaire du Ministre des finances en date du 25 novembre 1861 établit que les chefs de mission diplomatique, accrédités en Belgique, en se faisant reconnaître par la douane sont, à leur entrée dans le pays, dispensés de toute visite et exempts de tous droits pour leurs bagages et autres objets

qui les accompagnent. La franchise de visite et de droits ne peut toutefois être appliquée qu'aux colis désignés, au chef de la douane, par le chef de la mission, comme lui appartenant.

La loi du 26 août 1822 accorde également, sous réserve de réciprocité, l'exemption des droits de douane aux objets non accompagnés appartenant aux ministres des puissances étrangères, résidant en Belgique, ainsi qu'aux colis expédiés à leur adresse. Cette exemption peut s'étendre aux accises.

La loi ne parle que des ministres, mais le bénéfice qu'elle consacre a toujours été accordé aux chargés d'affaires effectifs ou intérimaires.

Les conseillers, secrétaires et attachés de légation ne jouissent de l'exemption que lorsqu'ils remplissent un intérim de chef de mission et seulement pendant la durée de cet intérim. Cependant, quand les agents diplomatiques d'un grade inférieur à celui de ministre, ou de chargé d'affaires arrivent en Belgique pour prendre possession de leurs fonctions, leur mobilier et leurs effets sont admis en franchise de tous droits, en vertu de la loi du 8 août 1835.

D'autre part, un arrêté ministériel du 19 décembre 1947, réglant l'application des franchises en matière de douane (*Moniteur belge* du 25. 12. 1947) stipule :

« Article 15. 1) Sous condition de réciprocité, la franchise totale des droits d'entrée est accordée pour les marchandises destinées à l'usage personnel des agents diplomatiques et des consuls de carrière en fonction dans le territoire de l'union économique belgo-luxembourgeoise, ainsi que des agents de chancellerie attachés aux légations et consulats y établis, pour autant que les intéressés soient étrangers et qu'ils n'exercent dans le territoire de l'Union économique belgo-luxembourgeoise aucune profession.

« Par usage personnel on entend aussi l'usage par les membres du ménage.

« 2) La franchise est accordée sur production d'une attestation dans laquelle l'ayant droit indique sa qualité et certifie que les marchandises sont destinées à son usage personnel. Cette attestation doit donner la spécification des marchandises avec indication de l'espèce, du nombre et des marques des colis.

« Lorsque les marchandises sont destinées à un agent de chancellerie attaché à une légation ou à un consulat, la pièce ci-dessus doit être visée par le chef de mission ou le chef du consulat.

« 3) Au cas où les marchandises importées en franchise sont cédées à des tiers, les droits deviennent exigibles.

« A l'importation, la franchise peut être constatée par la délivrance d'un document qui cesse ses effets si les marchandises ne restent pas à l'usage de l'ayant droit. »

Bagages accompagnant les diplomates

Sur production, aux agents de la douane, de leur passeport diplomatique ou de leur carte d'identité diplomatique, les chefs de mission diplomatique, de nationalité étrangère, sont dispensés de la visite des bagages et des autres objets qui les accompagnent et qu'ils désignent comme leur appartenant. Ils sont également exemptés de la perception de tous droits et taxes qui pourraient frapper ces bagages et objets.

Les mêmes immunités sont accordées pour les bagages accompagnant les femmes des chefs de mission, voyageant sans leur mari, lorsqu'elles peuvent établir leur identité au moyen de leur passeport.

Les agents diplomatiques du rang de conseillers, de secrétaires, d'attachés commerciaux, militaires ou navals sont — sauf le cas de soupçon d'abus — dispensés de la visite des bagages personnels qui les accompagnent, ainsi que de la préception de droits et taxes, sous la réserve que les intéressés puissent justifier de leur qualité par la production d'un passeport régulier.

Enfin, les personnes qui se font reconnaître en qualité d'agents diplomatiques, courriers ou porteurs de dépêches, jouissent des avantages précités, mais uniquement pour les plis, paquets et autres colis revêtus du sceau d'une chancellerie diplomatique (ambassade ou légation) à l'étranger et portant l'adresse soit du Ministre des affaires étrangères, soit d'une ambassade ou légation accréditée en Belgique ou à l'étranger, ou encore d'un autre gouvernement, à condition que ces plis, paquets ou colis soient mentionnés sur le passeport ou sur la feuille de route de la personne qui les présente.

Envois expédiés à l'adresse des diplomates

Les colis destinés aux membres des missions diplomatiques sont, sous réserve de réciprocité, admis librement et sans visite sur production d'un document 136 F. . . . Ces expéditions doivent, en principe, être dirigées sur l'entrepôt public de Bruxelles.

Lorsqu'ils viennent prendre possession de leurs fonctions, les agents diplomatiques, autres que les chefs de mission et les agents consulaires peuvent, en vertu de la loi du 8 août 1835, introduire en franchise de tous droits et taxes, leurs objets mobiliers de toute espèce pourvu que ceux-ci portent des traces apparentes d'usage.

Importation des voitures automobiles

En vertu de la législation douanière belge, l'exemption des droits et taxes, en tant que privilège diplomatique, est applicable aux voitures automobiles importées pour l'usage personnel des chefs de mission ou pour les besoins de leur maison.

Toutefois, par application de l'article 15 de l'arrêté ministériel du 19 décembre 1947, les voitures-automobiles importées pour leur usage personnel par les membres des ambassades et légations étrangères en Belgique, *du rang de conseiller, secrétaire ou attaché*, pourront, sous réserve de réciprocité, être admises dans le pays en franchise temporaire des droits et taxes sous réserve de réexportation ultérieure. Ces admissions auront lieu avec dispense de caution et de licence, sous le couvert d'un document « Benelux 4 », valable pour un an, ce délai étant susceptible, le cas échéant, d'être prorogé d'année en année. Pour éviter tous ennuis ultérieurs, les intéressés devront, lorsqu'ils quittent la Belgique lors de la cessation de leurs fonctions, faire constater par la douane la réexportation définitive des véhicules, en *restituant* le dit certificat de transit « Benelux 4 », au dernier poste douanier belge, au moment de franchir la frontière.

Les demandes d'admission temporaire pourront être adressées directement par les intéressés à l'Administration centrale des douanes, 59, rue Ducale, à Bruxelles. Ces demandes devront donner le signalement de la voiture (genre de véhicule, marque, numéro du châssis, numéro du moteur, nombre de cylindres, force en chevaux-vapeur, couleur de la carrosserie, nombre de places, couleur de la garniture intérieure, poids et valeur du véhicule), et indiquer les bureaux des douanes d'importation.

Les demandes éventuelles de prorogation devront parvenir à la même adresse et être accompagnées du document.

Revente des voitures automobiles

Les ambassadeurs, les envoyés extraordinaires et ministres plénipotentiaires, les chargés d'affaires en pied et les chargés d'affaires *ad intérim* qui font entrer en franchise de droits des voitures automobiles, au cours de leurs fonctions de chef de mission, sont autorisés, en cas de non-réexportation à revendre des voitures à des tiers en Belgique, sans rappel des droits de douane, lorsque le véhicule a été utilisé par eux pendant au moins une année.

Les conseillers, secrétaires et attachés des ambassades et légations qui renonceraient à la réexportation de leur voiture automobile entrée en Belgique en franchise des droits, sous le couvert d'un acquit de transit dit « Benelux 4 » et désireraient, après un an d'usage en Belgique, revendre ce véhicule à des tiers dans le Royaume, doivent d'une part, renvoyer le document « Benelux 4 » à l'administration des douanes, 59, rue Ducale, à Bruxelles, en indiquant le nom et l'adresse de la personne à qui ils cèdent le véhicule, d'autre part, prévenir cette personne de l'obligation qui lui incombe de se présenter avec la voiture au bureau d'émission de l'acquit de transit « Benelux 4 », pour y acquitter les droits et taxes exigibles sur le montant de la valeur de la voiture au moment de la vente.

Les dispositions ci-dessus ne préjudicient pas le droit à l'exemption au titre de déménagement, pour les véhicules *usagés* importés à l'occasion d'un transfert de résidence de l'étranger en Belgique.

Circulaire aux missions diplomatiques accréditées à Bruxelles

Par une circulaire en date du 8 août 1950 (même émargement), le service du protocole a fait savoir aux missions diplomatiques que l'administration des douanes avait introduit les formules 136 F en vue de simplifier et d'accélérer les formalités de dédouanement des colis et marchandises admises au bénéfice des immunités diplomatiques et consulaires.

Cette Administration a jugé cependant opportun de préciser la forme dans laquelle devront dorénavant être rédigées les déclarations en consommation 136 F présentées aux services de la douane d'Anvers et de Bruxelles.

Ces instructions, adressées aux services précités, sont formulées comme suit, et s'appliquent tant aux marchandises importées en franchise des droits d'entrée qu'à celles qui sont fournies en exemption des droits d'accise intérieurs :

« Les trois parties (« exemplaire pour l'Administration centrale », « exemplaire pour le bureau » et « exemplaire pour le déclarant ») de la déclaration en consommation 136 F doivent être remplies. La déclaration doit notamment porter, sous l'attestation prévue au modèle, la signature de l'ayant-droit et le sceau de l'ambassade ou de la légation.

« Pour les envois destinés à des agents de chancellerie, l'attestation doit être signée par l'intéressé et visée par le chef de mission, sous la formule suivante : « Les marchandises ci-dessus sont en rapport avec la situation de l'intéressé qui occupe effectivement la fonction indiquée. »

« La déclaration doit être libellée de telle manière qu'il ne soit pas possible d'y ajouter d'autres marchandises que celles indiquées par le signataire. Celui-ci bâtonnera les blancs ou encore, indiquera en-dessous du détail des marchandises, le nombre d'articles ou de rubriques que comporte ce détail. Le nombre de colis, notamment, sera inscrit en toutes lettres.

« S'il était présumé un abus de la part d'un tiers — messenger, commissionnaire ou tout autre intermédiaire — le fonctionnaire appelé à viser le document aurait à se mettre téléphoniquement en rapport avec l'ambassade ou la légation intéressée, afin d'obtenir les éclaircissements nécessaires.

« La mention figurant à la déclaration 136 F, sous le tableau donnant la spécification des marchandises, doit être établie de façon que la destination de celles-ci apparaisse clairement; en l'espèce, les indications inutiles, suivant le cas: « à son usage personnel », « aux besoins de sa maison », « aux besoins de sa famille » et « aux besoins de la chancellerie », doivent être nettement barrées. »

c) LOI DU 1^{er} JANVIER 1956 CONCERNANT LES IMMUNITÉS DES CONSULS DES PUISSANCES ÉTRANGÈRES EN BELGIQUE

Article 1^{er}. — Les consuls des puissances étrangères demeurent soumis, lorsqu'ils ont la qualité de Belge, au paiement de toutes les contributions qui pèsent ou pourront peser sur les autres Belges.

Article 2. — Les consuls qui ont la qualité de Belge sont exempts du service de la garde civique et de tout autre service personnel local, pourvu qu'ils fournissent la preuve que les États dont ils tiennent leur commission accordent de semblables immunités aux consuls de Belgique de la même catégorie. (Abrogé en ce qui concerne la garde civique par la loi du 16 juin 1884.)

Article 3. — Les consuls qui sont étrangers, mais qui ont établi leur domicile en Belgique de la manière prévue à l'article 13¹ du Code civil, seront traités, quant aux contributions et aux services personnels locaux, sur le même pied que les consuls ayant la qualité de Belge. (Même remarque qu'à l'article 2.)

Article 4. — Les consuls qui sont étrangers et qui, outre leurs fonctions consulaires, exercent un commerce ou une profession quelconque, sont tenus au paiement de toutes contributions. Ils sont exempts du service de la garde civique et des autres services personnels locaux. (Même remarque qu'à l'article 2.)

Article 5. — Les consuls qui sont étrangers et qui, outre leurs fonctions consulaires, n'exercent aucun commerce ni profession quelconque, seront exempts:

1° Du la contribution personnelle au profit de l'État, des provinces ou des communes;

2° Du service de la garde civique et de tous autres services personnels locaux (même remarque qu'à l'article 2);

3° Des logements militaires.

Avant de pouvoir jouir des exceptions mentionnées aux paragraphes 1 et 3, ils administreront la preuve que les mêmes immunités sont accordées par le gouvernement dont ils sont les mandataires aux consuls de Belgique de la même catégorie.

¹ *Article 13 du Code civil.* — L'étranger qui aura été admis par l'autorisation du Roi à établir son domicile en Belgique y jouira de tous les droits civils, tant qu'il continuera d'y résider.

d) ARRÊTÉ ROYAL DU 19 OCTOBRE 1928 CONCERNANT LES EXEMPTIONS DONT JOUISSENT LES CONSULS ÉTRANGERS EN BELGIQUE EN MATIÈRE DE RÉQUISITIONS ET DE PRESTATIONS PERSONNELLES.

Article 276. — Les dispositions du présent règlement ne sont pas applicables aux membres du corps consulaire étranger en Belgique si elles sont contraires aux stipulations des conventions consulaires conclues avec le pays qui a nommé les agents intéressés.

A défaut de convention de l'espèce:

1° Les consuls qui ont la qualité de Belge sont exempts de tout service personnel local pourvu qu'ils fournissent la preuve que les États dont ils détiennent leur commission accordent semblable immunité aux consuls de Belgique de la même catégorie;

2° Les consuls qui sont étrangers mais qui ont établi leur domicile en Belgique de la manière prévue à l'article 13 du Code civil, sont au point de vue des services personnels locaux traités comme les consuls ayant la qualité de Belge (v. 1°);

3° Les consuls qui sont étrangers et qui, outre leurs fonctions consulaires, exercent un commerce ou une profession quelconque, sont exempts des services personnels locaux;

4° Les consuls qui sont étrangers et qui n'exercent aucun commerce ni profession quelconque sont exempts:

a) Des services personnels locaux et

b) Des logements militaires.

Afin de pouvoir jouir de cette dernière exemption, ils administreront la preuve que les mêmes immunités sont accordées par le gouvernement dont ils sont les mandataires aux consuls de Belgique de la même catégorie.

e) INSTRUCTION DU MINISTÈRE DES FINANCES CONCERNANT LES IMMUNITÉS DIPLOMATIQUES, 1955 (ADMINISTRATION DES DOUANES ET ACCISES)

TITRE II. — IMMUNITÉS DIPLOMATIQUES PROPREMENT DITES

Chapitre I. — Dispositions légales et réglementaires générales

Section 1. — *Droits d'entrée*

I. *Principes de base*

5. — Immunités personnelles (article 15 de l'arrêté ministériel du 19 décembre 1947 — R. 4048):

« *Paragraphe 1^{er}.* — Sous condition de réciprocité, la franchise totale des droits d'entrée est accordée pour les marchandises destinées à l'usage personnel des agents diplomatiques et des consuls de carrière en fonction dans le territoire de l'Union économique belgo-luxembourgeoise, ainsi que des agents de chancellerie attachés aux légations et consulats y établis, pour autant que les intéressés soient étrangers et qu'ils n'exercent dans le territoire de l'Union économique belgo-luxembourgeoise aucune profession.

« Par usage personnel, on entend aussi l'usage par les membres du ménage.

« *Paragraphe 2.* — La franchise est accordée sur production d'une attestation dans laquelle l'ayant droit indique sa qualité et certifie que les marchandises sont destinées à son usage personnel. Cette attestation doit donner la spécification des marchandises avec indication de l'espèce, du nombre et des marques des colis.

« Lorsque les marchandises sont destinées à un agent de chancellerie attaché à une légation ou à un consulat, la pièce ci-dessus doit être visée par le chef de mission ou le chef de consulat.

« *Paragraphe 3.* — Au cas où les marchandises importées en franchise sont cédées à des tiers, les droits deviennent exigibles.

« A l'importation, la franchise peut être constatée par la délivrance d'un document qui cesse ses effets si les marchandises ne restent pas à l'usage de l'ayant droit. »

6. — Fournitures de chancellerie (article 16 de l'arrêté ministériel du 19 décembre 1947 — R. 4048):

« *Paragraphe 1^{er}.* — Sous condition de réciprocité, la franchise totale des droits d'entrée est accordée pour les fournitures de chancellerie envoyées par des gouvernements étrangers ou en leur nom, à leurs consulats établis dans le territoire de l'Union économique belgo-luxembourgeoise.

« *Paragraphe 2.* — La franchise est accordée sur production d'une attestation dans laquelle le consul intéressé affirme que les marchandises sont importées à l'usage du consulat et pour autant qu'il soit établi que les marchandises ont été envoyées directement au consul intéressé par son gouvernement ou par le représentant de celui-ci dans un pays tiers. »

Section 2. — *Droit d'accise et taxe spéciale de consommation*

I. — *Principe de base*

24. — L'article 3 de la loi du 30 juin 1951 (R. 4045) stipule:

« Exemption totale ou partielle du droit d'accise et de la taxe spéciale de consommation est accordée, aux conditions à déterminer par le Ministre des finances, pour les marchandises destinées à l'usage personnel des agents diplomatiques et des consuls de carrière, en fonction dans le pays, ainsi que des agents de chancellerie attachés aux légations et consulats y établis, pour autant que les intéressés soient étrangers et qu'ils n'exercent dans le pays aucune profession, et sous condition de réciprocité.

« Par usage personnel on entend aussi l'usage par les membres du ménage. »

Section 3. — *Taxe de transmission et de luxe*

I. — *Principe de base*

28. — La franchise des taxes de transmission et de luxe à l'importation est prévue à l'article 25 du Code des taxes assimilées au timbre.

Le même franchise est, par analogie, appliquée aux marchandises indigènes visées au paragraphe 26.

Chapitre II. — Chefs d'État

Section 1. — *Notion*

32. — Le souverain ou chef d'État est la personne à laquelle est confiée la direction suprême de l'État.

Section 2. — *Bagages*

A. — *Chefs d'État étrangers et personnes de leur suite*

33. — Les bagages qui accompagnent les souverains ou les chefs d'État étrangers, les princes étrangers appartenant à des familles régnantes, et, les personnes de leur suite voyageant avec eux, sont toujours admis sans visite ni formalités, même si le voyage se fait incognito.

Ce privilège n'est pas expressément prévu dans la législation fiscale. Il est la conséquence de la règle de droit international invoquée au paragraphe 58.

Les chefs locaux sont tenus de veiller à ce que les personnes visées au 1^{er} alinéa soient traitées avec tous les égards qui leur sont dus.

34. — En général, les passages ou séjours en Belgique de chefs d'État étrangers sont signalés par le Département des affaires étrangères à l'administration centrale qui adresse les instructions utiles aux services intéressés.

Ce n'est donc qu'exceptionnellement que les services de la douane auront à appliquer d'initiative les prescriptions qui précèdent.

35. — Les véhicules à moteur dans lesquels voyagent les personnes visées et leur suite, sont admis sans formalités, tant à l'entrée qu'à la sortie de l'U. E. B. L.

Section 3. — *Marchandises destinées à l'usage personnel*

A. — *Chefs d'État étrangers et personnes de leur suite*

37. — Les marchandises à usage personnel, que les personnes visées au paragraphe 33 importent concurremment avec des bagages, bénéficient du même régime que ces derniers.

Si elles sont importées autrement, lesdites marchandises soivent faire l'objet d'une déclaration 136 F, mais ne sont soumises à aucune autre formalité.

Chapitre III. — Chefs de gouvernements (premiers ministres) et ministres

Section 1. — *Notion*

39. — Par ministres, on entend ici, les hommes d'État choisis par le chef du pouvoir exécutif, c'est-à-dire, en général par le chef d'État, pour diriger l'administration des grands services publics. Il y a ainsi, le Premier Ministre ou chef du gouvernement¹, le Ministre de l'intérieur, de la justice, des finances, de la guerre ou de la défense nationale, etc.

Il convient de ne pas confondre ces ministres, membres de gouvernements, avec les ministres plénipotentiaires ou les ministres résidents qui sont des agents diplomatiques (voir paragraphe 46).

¹ En France, le titre est «Président du Conseil»; aux Pays-Bas, «Minister-president».

Le titre de ministre d'État est souvent (c'est le cas en Belgique) purement honorifique.

Section 2. — *Bagages*

40. — Les ministres visés au 1^{er} alinéa du paragraphe 39, Belges ou étrangers, *en fonction*, bénéficient de la dispense de visite pour les bagages qui les accompagnent. Les anciens ministres ne bénéficient pas de la dispense précitée. Il en est de même pour les ministres d'État.

Section 3. — *Marchandises destinées à l'usage personnel*

41. — La législation ne prévoit pas d'exemption pour les marchandises destinées aux ministres visés au paragraphe 39, 1^{er} alinéa.

Les droits et taxe sont donc à percevoir sur les marchandises que ces ministres importeraient dans leur bagages ou autrement.

Chapitre IV. — *Diplomates, consuls et agents de chancellerie, en général*

42. — On peut classer comme suit les membres du personnel des missions diplomatiques, d'après l'étendue des privilèges qui leur sont accordés en matière de douane :

- a) Chefs de mission diplomatique;
- b) Ministres-conseillers, conseillers, secrétaires et attachés;
- c) Agents de chancellerie.

Les personnes visées sub *a* et *b* sont également désignées sous l'appellation d'agents diplomatiques.

43. — Quant au personnel des consulats, il est classé, d'après le même critère, comme suit :

- a) Consuls;
- b) Agents de chancellerie.

Chapitre V. — *Agents diplomatiques*

Section 1. — *Notion*

A. — *Chefs de mission diplomatique*

On distingue :

44. — D'une part, les personnes (envoyés de cérémonie ou d'étiquette, ambassadeurs extraordinaires sans caractère politique) qui sont chargées de représenter à l'étranger le chef d'État dans certaines circonstances solennelles, par exemple, à un mariage, à un couronnement, aux fêtes d'un jubilé, à des funérailles.

Sont également assimilées à cette catégorie les personnes qu'un État envoie comme ses représentants diplomatiques *en mission spéciale*, pour une négociation, une conférence, un congrès.

On ne s'étendra pas davantage, dans la présente instruction, sur le statut de ces personnes; le caractère spécial et temporaire de leur mission ne requiert, en matière de douane, qu'un traitement de courtoisie semblable à celui qui est consenti, pour leurs bagages, aux membres des gouvernements (ministres) (voir paragraphes 40 et 41).

45. — D'autre part, les chefs des missions diplomatiques proprement dites (ministres d'affaires, envoyés politiques), qui sont des fonctionnaires ou des

délégués spéciaux permanents entretenus, les uns chez les autres, par les divers États, en vue d'assurer leurs relations mutuelles d'une façon régulière.

46. — Les chefs des missions diplomatiques dont il est question au paragraphe 45 sont rangés en quatre classes :

- a) Les ambassadeurs extraordinaires et plénipotentiaires, légats ou nonces ;
- b) Les envoyés extraordinaires et ministres plénipotentiaires ;
- c) Les ministres résidents ;
- d) Les chargés d'affaires.

Les ambassadeurs sont les représentants *personnels* du chef d'État ; ils dirigent les ambassades.

Les légats sont des ambassadeurs extraordinaires, chargés par le Saint-Siège de missions spéciales ayant un caractère plutôt ecclésiastique que politique.

Les nonces sont les ambassadeurs extraordinaires et plénipotentiaires du Pape. Ils dirigent les nonciatures.

Les envoyés extraordinaires et ministres plénipotentiaires représentent le chef de l'État qui les a nommés ; ils dirigent les légations. Les qualifications « extraordinaire » et « plénipotentiaire » ci-dessus n'ont qu'une valeur purement honorifique.

Les ministres résidents prennent rang immédiatement après les envoyés extraordinaires et ministres plénipotentiaires. Il n'y a que peu de différence entre les uns et les autres : les premiers n'ont droit qu'à des honneurs moindres. Il n'y a pas actuellement de ministres résidents en Belgique et au Grand-Duché de Luxembourg.

Quant aux chargés d'affaires, ils diffèrent des chefs de mission des trois premières classes par ce caractère essentiel : alors que ces derniers sont accrédités par le chef d'État auprès d'un autre chef d'État, les chargés d'affaires sont accrédités par le ministre des affaires étrangères d'un État auprès du ministre des affaires étrangères d'un autre État.

Il y a deux catégories de chargés d'affaires :

- a) Ceux qui sont chefs de poste, accrédités à titre permanent (chargés d'affaires en pied) ;
- b) Ceux qui remplissent cette fonction par intérim, en l'absence de l'ambassadeur, de l'envoyé ou du ministre résident (chargés d'affaires *ad interim*).

47. — La nomination des agents diplomatiques est réglée par les lois intérieures de chaque État. C'est donc à chacun d'eux qu'il appartient de déterminer quelle classe de chef de mission diplomatique il accréditera auprès de telle puissance étrangère.

B. — *Ministres-conseillers, conseillers secrétaires et attachés*

48. — Il s'agit d'agents diplomatiques qui font partie du personnel officiel d'une ambassade ou légation et qui se trouvent sous les ordres du chef de mission, c'est-à-dire du chef de l'ambassade ou de la légation.

Dans la suite de la présente instruction, les ministres-conseillers et les conseillers sont compris dans la dénomination unique de « conseillers ».

Section 2. — *Bagages*A. — *Chefs de mission diplomatique étrangers accrédités en Belgique ou au Grand-Duché de Luxembourg*

49. — En se faisant reconnaître par la douane, ces personnes sont dispensées de visite et exemptes de tous droits et taxes pour les bagages et autres objets qu'elles importent et qu'elles désignent comme leur appartenant :

Lorsque la femme d'un chef de mission n'est pas accompagnée de son mari, et que son identité est établie par son passeport, la même immunité lui est accordée pour les bagages qu'elle désigne être les siens.

A l'égard des services de la douane, les personnes précitées établissent leur qualité au moyen d'un passeport diplomatique ou d'une « Carte d'identité pour les membres du corps diplomatique » délivrée par le Ministère des affaires étrangères, à Bruxelles. Cette carte d'identité, de couleur jaune clair, porte dans les coins inférieurs les couleurs nationales belges.

A noter que les chanceliers des ambassades et légations sont également porteurs de ladite carte d'identité. Cette circonstance ne leur confère par le droit à l'exemption de visite, les chanceliers rentrant dans la catégorie des agents de chancellerie (voir paragraphes 75 et 78).

50. — Les véhicules à moteur dans lesquels voyagent les intéressés doivent, à l'entrée dans l'U. E. B. L., être couverts par un document de circulation internationale (triptyque, carnet de passages en douane, permis de sortie provisoire 139 B ou, exceptionnellement, certificat Benelux 4).

Dans le cas où aucun document ne peut être présenté, le service sollicite téléphoniquement les directives nécessaires auprès de l'Administration centrale — Service de la douane-législation.

51. — A remarquer que les chefs de mission diplomatique *néerlandais* accrédités en Belgique et au Grand-Duché de Luxembourg sont placés sur le même pied que les autres chefs de mission en fonction dans l'U. E. B. L. (voir paragraphe 23).

B. — *Conseillers, secrétaires et attachés étrangers, faisant partie d'une ambassade ou légation accréditée en Belgique ou au Grand-Duché de Luxembourg*

52. — Sauf le cas de soupçon d'abus, et pour autant qu'ils établissent leur qualité, ces agents diplomatiques bénéficient de la dispense de visite pour les bagages qui les accompagnent.

Ces agents diplomatiques se font reconnaître au moyen de pièces d'identité semblables à celles des chefs de mission (voir paragraphe 49, 3^e alinéa).

53. — Le service se conforme aux prescriptions des paragraphes 7 et 8, à l'égard des marchandises déclarées par les intéressés et au sujet desquelles ils font valoir un droit à l'exemption des redevabilités.

54. — Les véhicules à moteur dans lesquels voyagent les intéressés doivent être couverts par un document de circulation internationale (triptyque, carnet de passages en douane, certificat Benelux 4 ou, exceptionnellement, permis de sortie provisoire 139 B lorsque le véhicule se trouve en libre pratique dans le territoire de l'U. E. B. L.).

Si aucun document ne peut être présenté, le service sollicite téléphoniquement les directives nécessaires auprès de l'Administration centrale — Service de la douane-législation.

55. — A remarquer que les agents diplomatiques (conseillers, secrétaires et attachés) de nationalité *néerlandaise*, en fonction en Belgique et au Grand-Duché de Luxembourg, sont placés sur le même pied que les agents diplomatiques étrangers de même rang exerçant leur mission dans l'U. E. B. L. (voir paragraphe 23).

C. — *Chefs de mission diplomatique, conseillers, secrétaires et attachés en fonction en dehors de l'U. E. B. L.*

56. — La réglementation ne prévoit pas de dispense de visite des bagages accompagnant les intéressés.

Toutefois, il va sans dire que la douane témoignera notamment aux chefs de mission les égards dus à leur rang.

D. — *Cas particulier d'application de la franchise*

57. — A noter qu'en *Belgique* le chef de mission et les agents diplomatiques du Grand-Duché de Luxembourg bénéficient de l'exemption. D'autre part au *Grand-Duché de Luxembourg*, le chef de mission et les agents diplomatiques de la Belgique jouissent également de l'exemption (voir paragraphe 23). Les intéressés, tant luxembourgeois que belges, sont à placer sur le même pied que les personnes de même rang, de nationalité étrangère, dès l'instant où ils sont accrédités respectivement *en Belgique ou au Grand-Duché de Luxembourg*.

Section 3. — *Marchandises destinées à l'usage personnel et Marchandises destinées aux besoins officiels des missions diplomatiques*

A. — *Chefs de mission diplomatique étrangers accrédités en Belgique ou au Grand-Duché de Luxembourg*

58. — Les franchises et dispenses prévues aux paragraphes 5, 24, 28 et 31, litt. *b*, sont accordées, sans que soit requise la condition de réciprocité inscrite à l'art. 15 de l'arrêté ministériel du 19 décembre 1947 (R. 4048).

Cette dérogation est basée sur une règle de droit international admise par toutes les nations.

Pour ce qui concerne l'importation des véhicules à moteur la franchise ainsi qu'il est dit au paragraphe 13, est définitive pour autant que ces véhicules soient destinés à l'usage personnel des chefs de mission ou aux besoins de leur ménage. La déclaration en consommation 136 F présentée en l'occurrence est donc à valider.

Quant aux véhicules déclarés par un chef de mission diplomatique comme étant destinés aux besoins officiels de sa mission, ils ne peuvent être admis qu'en franchise temporaire sous le couvert de certificats Benelux 4 validés au nom de l'ambassade ou de la légation, aux conditions reprises sub paragraphe 18.

Les services habilités d'Anvers et de Bruxelles, chargés de statuer sur les demandes de franchise, se bornent en l'occurrence à vérifier si l'intéressé est repris, en qualité de chef de mission, aux listes du corps diplomatique accrédité à Bruxelles ou à Luxembourg, et à prescrire, suivant le cas, la validation de la déclaration 136 F ou la levée d'un certificat Benelux 4. Il est entendu qu'il ne peut être admis qu'une seule personne par ambassade ou légation au titre de chef de mission. Il s'agit de celle qui assure la haute direction de la mission, ou, en son absence, et seulement pendant la durée

de celle-ci, de l'agent diplomatique désigné en qualité de chargé d'affaires *ad interim*.

L'attention est attirée sur les dispositions des paragraphes 11, 27 et 30 en ce qui concerne les importations ou livraisons effectuées à destination du Grand-Duché de Luxembourg.

59. — Pour les chefs de mission *néerlandais*, voir le paragraphe 51.

B. — *Conseillers, secrétaires et attachés étrangers faisant partie d'une ambassade ou légation accréditée en Belgique ou au Grand-Duché de Luxembourg*

60. — Pour que les franchises et dispenses prévues aux paragraphes 5, 24, 28 et 31, litt. *b*, soient accordées, il faut que toutes les conditions inscrites dans la loi et notamment la condition de réciprocité soient remplies.

L'annexe A de la présente instruction énumère les pays qui satisfont à la condition de réciprocité en ce qui concerne les agents diplomatiques (conseillers, secrétaires et attachés); cette liste indique également (colonne des observations) si les agents de chancellerie attachés aux ambassades et légations peuvent bénéficier de l'exemption.

Les services compétents d'Anvers et de Bruxelles, appelés à contrôler le bien-fondé des demandes d'exemption, doivent:

a) Vérifier si le pays auquel appartient le diplomate satisfait à la condition de réciprocité (annexe A);

b) Limiter éventuellement la franchise d'après les indications reprises dans la colonne des observations de l'annexe A dont question;

c) Vérifier si l'intéressé est repris, sous sa qualité, à la liste du corps diplomatique accrédité à Bruxelles ou à Luxembourg;

d) Enfin, s'il s'agit de l'importation d'un véhicule à moteur, prescrire la délivrance d'un certificat Benelux 4, la déclaration en consommation 136 F présentée n'étant considérée, en l'occurrence, que comme demande d'exemption.

L'attention est attirée sur les dispositions des paragraphes 11, 27 et 30 en ce qui concerne les importations ou livraisons effectuées à destination du Grand-Duché de Luxembourg.

61. — Pour les conseillers secrétaires et attachés *néerlandais*: voir remarque sub paragraphe 55.

C. — *Chefs de mission diplomatique, conseillers, secrétaires et attachés en fonction en dehors de l'U. E. B. L.*

62. — Les marchandises qui seraient importées par ces personnes sont soumises aux règles ordinaires: déclaration, paiement des redevabilités, production de licences, etc.

D. — *Cas particulier d'application de la franchise*

63. — Pour les diplomates *belges et luxembourgeois* exerçant leur mission respectivement au Grand-Duché de Luxembourg ou en Belgique, voir le paragraphe 57.

L'attention est attirée sur les dispositions des paragraphes 11, 27 et 30, en ce qui concerne les importations ou livraisons effectuées à destination du Grand-Duché de Luxembourg.

Chapitre VI. — Consuls

Section 1. — Notion

64. — A côté et au dessous des agents diplomatiques, lesquels représentent l'État d'une façon universelle et pour l'ensemble de ses relations, il existe d'autres agents permanents, qui le représentent principalement, sinon exclusivement, pour ses intérêts commerciaux, économiques et sociaux. Ces agents sont les consuls.

Ils sont entretenus par leur État dans les places de commerce et plus spécialement dans les ports maritimes où, dans le cadre de leur mission telle qu'elle est définie à l'alinéa qui précède, ils sont amenés à protéger les intérêts de leurs nationaux qui y voyagent, à veiller à la conservation de leurs droits et même à remplir à leur égard certaines fonctions administratives, notariales et judiciaires.

65. — On distingue :

- a) Les consuls de carrière ;
- b) Les consuls qui ne sont pas de carrière, ou consuls honoraires (que l'on appelle aussi consuls marchands).

66. — Les consuls de carrière n'exercent aucune profession autre que celle de servir l'État. Ce sont généralement des nationaux de l'État qui les emploie. Comme tous les fonctionnaires, ils touchent un traitement.

Ils sont seuls visés par la législation douanière en matière d'immunités.

67. — La hiérarchie consulaire comprend trois classes :

- a) Les consuls généraux ;
- b) Les consuls ;
- c) Les vice-consuls.

Le mot de « consul », ainsi que c'est d'ailleurs le cas dans la présente instruction, se prend souvent dans une acception générale pour désigner les consuls généraux, consuls et vice-consuls.

Dans certains pays, le corps consulaire de carrière comprend également des « agents consulaires », et des « attachés de consulat ». Les immunités ne sont accordées en faveur de ces deux catégories que lorsqu'elles sont expressément prévues dans la colonne « observations » de l'annexe B de la présente instruction.

68. — Les consuls qui ne sont pas de carrière (ou consuls honoraires) ne sont pas des fonctionnaires de l'État qu'ils servent et peuvent exercer d'autres professions. Ils peuvent aussi, en cas de manque de nationaux qualifiés, être étrangers à l'État dont ils sont consuls et même appartenir au pays où ils exercent leurs fonctions.

Les consuls honoraires sont exclus de la franchise personnelle prévue à l'art. 15 de l'arrêté ministériel du 19 décembre 1947 (R. 4048), et, par voie de conséquence, des autres franchises et dispenses cités sub paragraphes 24, 28 et 31, litt. b.

Section 2. — Bagages

69. — La dispense de visite de bagages par la douane belge n'est pas prévue pour les consuls, qu'ils soient de carrière ou honoraires, de quelque nationalité qu'ils soient et quel que soit l'État où ils exercent leurs fonctions.

Toutefois, en ce qui concerne les consuls de carrière étrangers en fonction dans le territoire de l'U. E. B. L., les règles prévues aux paragraphes 7, 8 et 54 sont éventuellement appliquées.

Même s'ils sont en possession d'un passeport diplomatique, les consuls de carrière étrangers en fonction en Belgique doivent établir leur qualité au moyen d'une carte comportant deux volets, intitulée: « Carte d'identité pour les membres du corps consulaire », et délivrée par le Ministère des affaires étrangères, à Bruxelles. Cette carte d'identité, de couleur rose, porte dans le coin inférieur droit du premier volet les couleurs nationales belges.

Section 3. — *Marchandises destinées à l'usage personnel*

A. — *Consuls de carrière (consuls généraux, consuls et vice-consuls) étrangers, en fonction dans le territoire de l'U. E. B. L.*

70. — Pour que les franchises et dispenses prévues aux paragraphes 5, 24, 28 et 31, litt. *b*, soient accordées, il faut que toutes les conditions inscrites dans la loi et notamment la condition de réciprocité soient remplies.

L'annexe B de la présente instruction donne la liste des pays qui satisfont à la condition de réciprocité à l'égard des marchandises destinées aux consuls de carrière, et mentionne éventuellement (colonne des observations) que la franchise peut être accordée aussi aux agents de chancellerie attachés aux consulats.

Les services compétents (voir paragraphe 13, 1^{er} alinéa), appelés à contrôler le bien-fondé des demandes d'exemption, doivent:

a) Vérifier si le pays auquel appartient le consul satisfait à la condition de réciprocité (annexe B);

b) Limiter éventuellement la franchise d'après les indications reprises dans la colonne « observations » de l'annexe B;

c) Vérifier si l'intéressé est repris, sous sa qualité de *consul de carrière*, à la liste des consulats étrangers en Belgique;

d) Enfin, s'il s'agit de l'importation d'un véhicule à moteur, prescrire la délivrance d'un certificat Benelux 4, la déclaration en consommation 136 F présentée n'étant considérée, en l'occurrence, que comme demande d'exemption.

L'attention est attirée sur les dispositions des paragraphes 11, 27 et 30 en ce qui concerne les importations ou livraisons effectuées à destination du Grand-Duché de Luxembourg.

71. — A remarquer que les consuls de carrière *néerlandais* en fonction dans l'U. E. B. L. sont placés sur le même pied que les consuls de carrière étrangers exerçant leur mission dans l'Union précitée (voir paragraphe 23).

B. — *Consuls de carrière en fonction en dehors de l'U. E. B. L.*

72. — Les marchandises importées par ces personnes sont soumises aux règles ordinaires: déclaration, paiement des redevabilités, production de licences, etc.

C. — *Cas particulier d'application de la franchise*

73. — A noter qu'en Belgique les consuls de carrière du Grand-Duché de Luxembourg bénéficient de l'exemption. D'autre part, au Grand-Duché de Luxembourg, les consuls de carrière de la Belgique jouissent également de l'exemption (voir paragraphe 23). Les intéressés, tant luxembourgeois que belges, sont à placer sur le même pied que les personnes de même catégorie, de nationalité étrangère, dès l'instant où ils sont en fonction *respectivement en Belgique ou au Grand-Duché de Luxembourg*.

L'attention est attirée sur les dispositions des paragraphes 11, 27 et 30 en ce qui concerne les importations ou livraisons effectuées à destination du Grand-Duché de Luxembourg.

Chapitre VII. — Agents de chancellerie

Section 1. — *Notion*

74. — Le chef de mission diplomatique a sous ses ordres les personnes *officielles* qui composent l'ambassade ou la légation, ainsi que des personnes *non officielles* qui sont attachées au service de l'ambassade ou de la légation.

75. — En dehors des conseillers, secrétaires et attachés, déjà compris par la législation douanière parmi les agents diplomatiques (paragraphe 48), le *personnel officiel* des missions diplomatiques peut comporter :

- Des chanceliers ;
- Des employés, dactylographes, sténographes, etc. ;
- Des interprètes ;
- Des courriers ;
- Des aumôniers ;
- Des médecins ;
- Des jurisconsultes.

Ces personnes sont désignées sous l'appellation d'agents de chancellerie.

Les personnes des trois dernières catégories — aumôniers, médecins, jurisconsultes — ne sont toutefois considérées comme faisant partie du personnel officiel que si elles sont nommées, comme il est dit plus haut, par le gouvernement intéressé, font véritablement partie de l'ambassade ou de la légation et lui appartiennent d'une façon exclusive ou du moins prépondérante, mais non pas si, résidant à l'ordinaire dans le pays, elles n'exercent qu'accessoirement ou incidemment des fonctions auprès de la mission diplomatique.

La liste des membres du personnel officiel des missions diplomatiques est communiquée par les États intéressés au Ministre des affaires étrangères.

Seuls, les membres du personnel officiel sont visés par la réglementation douanière en matière de franchises.

76. — Le *personnel non officiel* se compose des personnes attachées au service personnel du chef de mission, tels que son secrétaire particulier, le précepteur de ses enfants, ses domestiques.

Ce personnel n'est pas visé par la réglementation en matière d'immunités douanières.

77. — Le personnel des consulats se compose également d'agents placés sous l'autorité du consul, chef du consulat.

Pour l'application des privilèges en matière de douanes, ces agents sont à classer comme suit :

a) les agents de chancellerie proprement dits ou agents de chancellerie *de carrière* ; il s'agit ici d'agents du cadre de chancellerie, nationaux du pays qui utilise leurs services, pleinement rétribués par lui et n'exerçant aucune autre profession ;

b) tous autres agents ou employés (temporaires, recrutés sur place, etc.), exerçant en partie d'autres professions, qui sont souvent désignés également, mais improprement, sous la dénomination d'« agents de chancellerie ».

Seuls les agents de chancellerie définis au litt. *a)* sont visés par la réglementation douanière en matière de franchises.

Section 2. — *Bagages*

78. — L'exemption de visite des bagages n'est pas consentie aux agents de chancellerie, quels qu'ils soient.

Toutefois, en ce qui concerne les agents de chancellerie étrangers, attachés à une ambassade ou à une légation, ainsi que les agents de chancellerie de carrière attachés à un consulat, et qui exercent leurs fonctions dans l'U. E. B. L., les règles prévues aux paragraphes 7, 8 et 54 sont éventuellement appliquées.

A l'égard des services de la douane, les agents de chancelleries étrangers en fonction en Belgique établissent leur qualité au moyen d'une carte comportant trois volets, intitulée « Titre de séjour spécial », et délivrée par le Ministère des affaires étrangères, à Bruxelles. Cette carte, de couleur blanche, porte sur le premier volet deux bandes bleues imprimées diagonalement (voir, cependant, la remarque faite au dernier alinéa du paragraphe 49, en ce qui concerne les chanceliers des ambassades et légations).

Il est à remarquer que le « Titre de séjour spécial » est délivré à d'autres catégories d'étrangers. L'agent de chancellerie ne pourra donc établir sa qualité au moyen du « Titre de séjour spécial » que s'il est mentionné comme « agent de chancellerie » ou « employé de chancellerie ».

Section 3. — *Marchandises destinées à l'usage personnel*

A. — *Agents de chancellerie étrangers, attachés aux ambassades et légations, et agents de chancellerie de carrière étrangers attachés aux consulats établis dans l'U. E. B. L.*

79. — Pour que les franchises et dispenses prévues aux paragraphes 5, 24, 28 et 31, litt. *b*, soient accordées, il faut que toutes les conditions inscrites dans la loi et notamment la condition de réciprocité soient remplies.

80. — Les agents de chancellerie des ambassades et légations peuvent bénéficier des exemptions pour autant que la demande des ayants droit, présentée sur déclaration 136 F comme il est dit aux paragraphes 9 et 12, soit contresignée par le chef de mission diplomatique, sous la formule attestant la qualité des intéressés en tant qu'agents de chancellerie.

81. — En ce qui concerne les agents de chancellerie attachés aux consulats, la déclaration en consommation 136 F doit être contresignée par le chef du consulat intéressé.

Le bénéficiaire est mentionné au document, sous le tableau donnant la spécification des marchandises, sous sa qualité d'« agent de chancellerie de carrière du consulat ».

82. — Les services compétents d'Anvers et de Bruxelles appelés à contrôler le bien-fondé des demandes d'exemption, doivent :

a) Vérifier si le pays auquel appartient l'ambassade, la légation ou le consulat satisfait à la condition de réciprocité en ce qui concerne les agents de chancellerie (colonne « observations » des annexes A et B, suivant qu'il s'agit d'agents de chancellerie attachés soit à une ambassade ou légation, soit à un consulat);

b) Limiter éventuellement la franchise d'après les indications reprises dans la colonne « observations » des annexes A et B;

c) Vérifier si le contresingé du chef de mission diplomatique ou du chef du consulat est apposé sur la déclaration en consommation 136 F;

d) Enfin, s'il s'agit de l'importation d'un véhicule à moteur, prescrire la délivrance d'un certificat Benelux 4, la déclaration en consommation 136 F présentée n'étant considérée, en l'occurrence, que comme demande d'exemption.

L'attention est attirée sur les dispositions des paragraphes 11, 27 et 30 en ce qui concerne les importations ou livraisons effectuées à destination du Grand-Duché de Luxembourg.

83. — A remarquer que les agents de chancellerie *néerlandais* en fonction dans l'U. E. B. L. sont placés sur le même pied que leurs collègues étrangers exerçant dans l'Union (voir paragraphe 23).

B. — *Agents de chancellerie en fonction en dehors de l'U. E. B. L.*

84. — Les marchandises qui seraient importées par ces personnes sont soumises aux règles ordinaires: déclaration, paiement des redevabilités, production de licences, etc.

C. — *Cas particulier d'application de la franchise*

85. — A noter qu'en *Belgique* les agents de chancellerie du Grand-Duché de Luxembourg bénéficient de l'exemption. D'autre part, au *Grand-Duché de Luxembourg*, les agents de chancellerie de la Belgique jouissent également de l'exemption (voir paragraphe 23). Les intéressés, tant luxembourgeois que belges, sont à placer sur le même pied que les personnes de même catégorie, de nationalité étrangère, dès l'instant où ils sont en fonction *respectivement en Belgique ou au Grand-Duché de Luxembourg*.

L'attention est attirée sur les dispositions des paragraphes 11, 27 et 30 en ce qui concerne les importations ou livraisons effectuées à destination du Grand-Duché de Luxembourg.

Chapitre VIII. — *Courriers diplomatiques*

Section 1. — *Notion*

86. — La correspondance diplomatique entre les gouvernements — surtout des grandes puissances — et leurs agents diplomatiques à l'étranger, se fait en grande partie par courriers plutôt que par la poste.

Les courriers ordinaires sont des agents de chancellerie (voir paragraphe 75). Chargés de porter les dépêches d'un gouvernement à ses agents, ou les rapports des agents à leurs gouvernements, ces courriers ainsi que les correspondances qu'ils portent sont, dans tous les pays qu'ils traversent, inviolables en temps de paix.

On prend comme courriers des hommes de toute confiance. Les courriers ordinaires forment un corps spécial; on les appelle courriers de cabinet.

On peut charger de cette mission d'autres personnes, à titre extraordinaire: des fonctionnaires ministériels, des aides de camp, des secrétaires, des attachés, même de simples particuliers; on les appelle alors courriers porteurs de dépêches.

Section 2. — *Colis et plis transportés par les courriers diplomatiques*

87. — La franchise des droits et la dispense de visite sont toujours accordées pour les plis, paquets, colis, etc., contenant les correspondances diplomatiques.

Ces paquets, colis, etc., doivent être mentionnés sur le passeport ou la feuille de route de la personne qui les présente, et, par ailleurs, doivent suivre qu'ils sont envoyés par un gouvernement à un de ses agents diplomatiques ou par un agent diplomatique à son gouvernement, être revêtus :

Soit du sceau d'un Ministère des affaires étrangères (ou, dans certains pays, des Relations extérieures) et porter l'adresse d'une ambassade ou légation;

Soit du sceau d'une ambassade ou légation et porter l'adresse d'un Ministère des affaires étrangères (ou des Relations extérieures).

Il n'est fait aucune distinction entre le courrier diplomatique à l'entrée ou à la sortie du pays et celui qui transite par celui-ci.

88. — La dispense est accordée à tous les courriers diplomatiques, qu'ils soient belges ou étrangers, qu'ils soient attachés à une ambassade ou à une légation quelconque établie en Belgique ou à l'étranger, ou encore attachés à un Ministère des affaires étrangères belge ou étranger.

Il s'agit d'une règle de droit international admise par toutes les nations. La condition de réciprocité reste donc entièrement hors de question.

89. — Si le nombre ou le volume des colis est tel qu'il fasse naître des soupçons d'abus, le chef du bureau d'entrée ne doit pas moins les laisser suivre, mais il en informe immédiatement et directement l'Administration centrale — Service de la douane-législation — afin qu'il puisse être pris telle mesure qui sera jugée convenir.

90. — Les paquets scellés, mais non mentionnés sur les passeports ou les feuilles de route, sont dirigés par passavant-à-caution sur l'entrepôt public de Bruxelles, ou, par acquit de transit, sur le bureau de sortie désigné par la personne intéressée. Néanmoins, le chef du bureau d'entrée peut, dans ce cas, laisser passer les colis dûment cachetés, lorsqu'il est apparent qu'ils ne contiennent que des documents diplomatiques.

En toute hypothèse, les cachets officiels doivent être respectés par les agents de la douane.

Section 3. — *Bagages personnels et marchandises destinées à l'usage personnel*

91. — Il va sans dire que la dispense de visite des bagages personnels qui accompagnent le courrier diplomatique ne peut lui être accordée qu'en raison de ses titres personnels; il en est de même, d'autre part, en ce qui concerne les franchises et dispenses prévues aux paragraphes 5, 24, 28 et 31, litt. *b*, pour les marchandises destinées à l'usage personnel.

Suivant le cas, seront suivies les règles prescrites aux paragraphes 52 à 57 et 60 à 63 (conseillers, secrétaires, attachés) ou aux paragraphes 78 à 85 (agents de chancellerie).

Chapitre IX. — *Fouritures de chancellerie*

92. — Par fouritures de chancellerie, on entend :

a) Les emblèmes officiels (drapeaux, sceaux, écussons et autres objets du même genre);

b) Les documents officiels (registres de chancellerie, documents de toute espèce, pour autant qu'ils portent des mentions imprimées leur donnant un caractère officiel);

c) Les mobiliers de bureau (bureaux, tables, sièges, armoires, coffres-forts, machines à écrire, tapis, rideaux, etc.);

d) Les fournitures de bureau (papiers, enveloppes, carnets ciseaux, crayons, plumes, gommes, tampons, ficelle, encre, attaches, etc.).

93. — Les fournitures de chancellerie destinées aux ambassades et légations établies dans l'U. E. B. L. bénéficient de la franchise à titre de marchandises destinées aux besoins officiels de la mission diplomatique.

Pour ce qui est des fournitures de chancellerie destinées aux consulats étrangers établis dans l'U. E. B. L., le principe de la franchise est inscrit à l'art. 16 de l'arrêté ministériel du 19 décembre 1947 (voir paragraphe 6).

A remarquer que la franchise est accordée même si les envois sont adressés à un consulat dont le titulaire ne serait qu'un consul honoraire.

En ce qui concerne les consulats, l'exemption ne s'applique qu'aux seuls objets désignés au paragraphe précédent. L'admission temporaire prévue au paragraphe 58, 4^e alinéa, à l'égard des véhicules à moteur destinés aux besoins officiels d'une mission diplomatique, n'est donc pas consentie à l'égard des consulats.

L'exemption de la taxe de transmission et de luxe, ainsi que la dispense de licence, sont prévues aux paragraphes 28 et 31, litt. b, de la présente instruction.

Les formalités sont détaillées aux paragraphes 7 à 17.

La liste des pays qui satisfont à la condition de réciprocité fait l'objet de l'annexe C.

Au Grand-Duché de Luxembourg, les fournitures de chancellerie destinées aux consulats belges et néerlandais bénéficient également de la franchise. Il en est de même, en Belgique, des fournitures de l'espèce, importées à destination des consulats des Pays-Bas et du Grand-Duché de Luxembourg.

L'attention est attirée sur les dispositions du paragraphe 11 en ce qui concerne les importations effectuées via la Belgique à destination d'un consulat établi au Grand-Duché de Luxembourg.

f) LOIS COORDONNÉES RELATIVES AUX IMPÔTS SUR LES REVENUS

Article 58. — Sont exempts de toute déclaration et de toute taxe du chef des revenus visés à l'article 14, paragraphe 1^{er}, 4^e, et des rémunérations visées aux 2^e et 3^e du paragraphe 1^{er} de l'article 25, ainsi que de l'impôt complémentaire personnel, les ministres et autres agents diplomatiques étrangers, de même que les consuls et agents consulaires accrédités en Belgique, lorsqu'ils sont sujets de l'État qu'ils représentent, à la condition, toutefois, que les gouvernements dont ils sont les mandataires accordent la même immunité aux agents diplomatiques et consulaires belges.

DISPOSITIONS AUXQUELLES SE RÉFÈRE L'ARTICLE 58

Article 14, paragraphe 1^{er}. — L'impôt sur le revenu des capitaux mobiliers s'applique aux dividendes, intérêts, arrérages et tous autres produits de capitaux engagés, à quelque titre que ce soit, et constituant:

1^o Revenus d'actions ou parts quelconques, d'obligations ou autres créances de prêts à charge des sociétés par actions, civiles ou commerciales, ayant en Belgique leur siège social ou leur principal établissement administratif;

2^o Revenus de titres émis par l'État, les provinces, les communes et autres organismes ou établissements publics, sauf les exemptions concernant les coupons prévues par des dispositions légales particulières;

3° Revenus:

a) De capitaux investis dans toutes affaires commerciales, industrielles ou agricoles, exploitées autrement que par les sociétés visées au 1° ci-dessus et à l'exclusion des capitaux engagés soit par les exploitants eux-mêmes dans leurs affaires personnelles, soit par des associés actifs dans les sociétés de personnes;

b) De toutes créances et prêts, à charge des personnes physiques et des sociétés autres que par actions résidant ou domiciliées en Belgique;

c) Des sommes d'argent déposées en Belgique soit dans des établissements de banque, de change, de crédit, de consignation ou d'épargne, soit chez des banquiers, notaires, agents d'affaires ou autres dépositaires;

4° Revenus de rentes et valeurs mobilières étrangères, de créances sur l'étranger, encaissés ou recueillis en Belgique par toute personne quelconque ou encaissés ou recueillis à l'étranger par des personnes physiques ou morales domiciliées ou résidant dans le pays.

Toutefois, la taxe mobilière n'est pas exigible sur les revenus des valeurs étrangères déposées en Belgique par des personnes physiques ou morales n'ayant dans le pays ni résidence, ni domicile, ni établissement.

Les conditions auxquelles les dépôts doivent répondre sont fixées par le Ministre des finances.

L'impôt s'applique également aux produits de la location, de l'affermage, de l'usage et de la concession de tous biens mobiliers.

Il s'applique aussi aux revenus des biens immobiliers situés à l'étranger.

Paragraphe 2. — L'impôt éventuellement supporté par le débiteur à la décharge du bénéficiaire des revenus est ajouté au montant de ceux-ci pour le calcul de la taxe.

Article 25, paragraphe 1^{er}. — La taxe professionnelle atteint tous les revenus désignés ci-après:

1° Les bénéfices des exploitations industrielles, commerciales ou agricoles quelconques, y compris les bénéfices résultant du travail personnel des associés dans les sociétés civiles ou commerciales, possédant une personnalité juridique distincte de celle des associés;

2° Les rémunérations diverses;

a) De toutes personnes rétribuées par un tiers, sans être liées par un contrat d'entreprise, y compris les bénéficiaires de pensions ou de rentes viagères;

b) Des administrateurs, commissaires ou liquidateurs près des sociétés par actions, y compris les gouverneurs, directeurs, régents, censeurs et autres remplissant des fonctions analogues à celles des dits redevables.

3° Les profits, quelle que soit leur dénomination, des professions libérales, charges ou offices et de toutes occupations lucratives, non visées aux 1° et 2° du présent paragraphe.

Paragraphe 2. — Pour les personnes physiques, la taxe n'est pas due lorsque le revenu imposable n'atteint pas le minimum indiqué ci-après:

15.000 francs dans les communes de moins de 5.000 habitants;

17.000 francs dans les communes de 5.000 à 30.000 habitants exclusivement;

22.000 francs dans les communes de 30.000 habitants et plus.

La commune à prendre en considération est celle où la profession est exercée ou celle du domicile ou de la résidence de l'intéressé au choix de celui-ci.

Paragraphe 3. — La classification est basée sur la population totale constatée par le dernier recensement décennal publié avant l'année de l'exigibilité de l'impôt.

Paragraphe 4. — Lorsqu'une agglomération s'étend sur plusieurs communes, ces communes ou leurs parties agglomérées peuvent être rangées, par arrêté royal, dans la catégorie à laquelle appartient la commune la plus peuplée.

Un arrêté royal peut aussi ranger une commune dans une catégorie supérieure à celle de la population visée au paragraphe 3 lorsque le coût de la vie y est particulièrement élevé en raison de circonstances exceptionnelles; il peut également classer une commune dans une catégorie supérieure ou inférieure lorsque la population a augmenté ou diminué dans une proportion justifiant cette modification.

Paragraphe 5. — Le minimum indiqué au paragraphe 2 est augmenté d'un cinquième pour chacun des trois premiers membres de la famille à charge du contribuable au 1^{er} janvier de l'année d'imposition.

Cette augmentation est portée, quelle que soit la population de la commune, à 15.000 francs pour le quatrième membre de la famille à charge du contribuable et à 20.000 francs pour chacun des membres de la famille à charge au-delà du quatrième.

Paragraphe 6. — Les minima et les accroissements respectivement indiqués aux paragraphes 2 et 5 peuvent être révisés par arrêté royal, en cas de modification des conditions économiques.

Paragraphe 7. — Sont considérés comme membres de la famille, à la charge du contribuable, à condition qu'ils fassent partie du ménage:

- 1° Son épouse;
- 2° Ses ascendants et ceux de son conjoint;
- 3° Ses descendants ou collatéraux, jusqu'au deuxième degré inclusivement;
- 4° Les orphelins recueillis.

Si le contribuable est veuf non remarié et a un ou plusieurs enfants à charge, le conjoint décédé est censé être également à charge.

Paragraphe 8. — En cas de remariage, ces dispositions sont applicables aux ascendants, descendants ou collatéraux des deux conjoints.

Article 37, paragraphe 1^{er}. — Tout habitant du royaume est soumis annuellement à un impôt complémentaire personnel calculé sur l'ensemble de ses revenus tels qu'ils sont définis aux articles 40 à 42.

Paragraphe 2. — Est réputé habitant du royaume celui qui y a établi son domicile ou le siège de sa fortune.

g) IMPÔT SUR LES REVENUS DES EMPLOYÉS ET DU PERSONNEL DOMESTIQUE

En cas de réciprocité, les fonctionnaires et employés au service des ambassades et légations étrangères en Belgique sont exonérés du paiement de

l'impôt sur le revenu, à condition qu'ils soient de nationalité étrangère, sans autre spécification.

Il en est de même pour les membres du personnel domestique de nationalité étrangère au service privé des chefs de mission.

Il s'agit, en effet, de la suite officielle et non officielle du chef de poste.

Les employés et membres du personnel domestique au service privé des autres membres des ambassades et légations ne sont pas exemptés de cet impôt.

Ce sont les intéressés eux-mêmes qui doivent déclarer leurs revenus et acquitter l'impôt, le Ministère des affaires étrangères et du commerce extérieur se refusant à fournir des renseignements à ce sujet à l'Administration des contributions.

- h) CODE DES DROITS D'ENREGISTREMENT, D'HYPOTHÈQUE ET DE GREFFE —
CODE DES DROITS DE SUCCESSION — CODE DES DROITS DE TIMBRE —
CODE DES TAXES ASSIMILÉES AU TIMBRE

La législation belge sur les droits d'enregistrement, d'hypothèque, de greffe, de succession et de timbre, et sur les taxes assimilées au timbre ne contient pas de disposition visant spécialement les immunités diplomatiques et consulaires, hormis l'article 25 du Code des taxes assimilées au timbre ainsi libellé:

« Sont exonérées de la taxe:

« 1. L'importation:

« a) D'objets envoyés aux chefs de mission diplomatique accrédités en Belgique; »

Cependant, de larges immunités sont admises en faveur des agents diplomatiques et consuls étrangers, par l'effet de la fiction de l'exterritorialité ou conformément à une tradition basée sur le droit des gens et selon laquelle un État ne peut mettre obstacle à l'exercice des fonctions des agents des puissances étrangères accrédités auprès de lui.

Brazil

- (a) MEMORANDUM¹ ON BRAZILIAN LEGISLATION RELATING TO DIPLOMATIC AND CONSULAR IMMUNITIES

The immunities and privileges of the diplomatic officers and consular agents of the American Republics who are stationed in Brazil are governed by the provisions of the relevant Conventions signed at Havana on 20 February 1928.²

The immunities and privileges of the diplomatic officers and consular agents of other countries are governed by the general principles contained in those international instruments, on the condition that the countries concerned extend identical treatment to Brazilian diplomatic officers and consular agents.

In addition to these general instruments, there are various provisions of municipal law which govern their application.

¹ Received from the Permanent Representative of Brazil to the United Nations. Translation by the Secretariat of the United Nations.

² See *infra*, Second Part, I, Treaties Nos 2 and 3.

In Brazil, the exemption of diplomatic officers and consular agents from duties payable to the customs authorities is regulated by Legislative Decree No. 300 of 24 February 1938 . . .¹

The exemption of consuls from import duties is regulated by article 16 of Legislative Decree No. 4391 of 18 June 1942 . . .² which contains provisions concerning the admission to Brazil of the consular agents of foreign countries and their relationship with the Brazilian authorities.

The Brazilian Government's policy in this matter is to grant, subject to strict reciprocity, exemption from import duties and other customs charges in respect of supplies and equipment intended for the use of the consulates of consuls of career and, during the period of their initial installation (usually six months), in respect of articles for the use of these consuls themselves; this general policy is without prejudice to the terms of any special agreement concerning this matter entered into between Brazil and the sending country.

(b) LEGISLATIVE DECREE NO. 300 OF 24 FEBRUARY 1938

Article 11. Exemption from import duties on goods intended for consumption and from other customs charges shall be extended to:

(5) The personal effects which ambassadors, ministers, *chargés d'affaires*, secretaries and *attachés* of diplomatic missions accredited to the Government of the Republic bring with them as part of their baggage at the time of their arrival in Brazilian territory;

(6) The articles which ambassadors, ministers and *chargés d'affaires* accredited to the Government of the Republic import directly for their personal use, and, provided that similar exemption is granted on the basis of reciprocity to Brazilian representatives of similar rank in the countries concerned, the articles which the secretaries and *attachés* of embassies and legations import under the same conditions;

(7) The furniture and other personal effects of consuls-general of career, consuls of career and vice-consuls of career which are imported directly for their initial installation;

(8) The office supplies and equipment directly imported into Brazil by diplomatic missions and the consulates of consuls of career for the official purposes thereof.

(c) LEGISLATIVE DECREE NO. 4391 OF 18 JUNE 1942 GOVERNING THE ADMISSION OF FOREIGN CONSULAR AGENTS TO BRAZIL AND THEIR RELATIONS WITH THE BRAZILIAN AUTHORITIES

Article 16. The Brazilian Government grants exemption from customs duties solely in respect of the first installation of the consular agents and other career officials of the consular service of countries which, not having entered into special conventions or agreements with Brazil concerning the subject, grant reciprocity of treatment to Brazil, this exemption to be subject to the proviso that the said consular agents and officials are in fact career officers and nationals of the State appointing them, that they do not

¹ See *infra* (b).

² See *infra* (c).

engage in any other gainful activity, and that the importation of the articles involved is not forbidden by Brazilian law.

Paragraph 1. The Brazilian Government likewise grants exemption from duty in respect of articles for office use which are imported by the consulates of countries that extend similar treatment to Brazilian consulates.

Paragraph 2. Applications for exemption from duty under this article shall be addressed, in each particular case, to the Ministry of Foreign Affairs through the diplomatic representative of the country to which the consular agent belongs.

Paragraph 3. In the absence of an embassy or legation of the country concerned, the consular agent shall make the application through the Chief of the Consular Division of the Ministry of Foreign Affairs, following a diplomatic note from his Government which assures reciprocity of treatment.

Burma

(a) MEMORANDUM ¹ ON PRIVILEGES AND IMMUNITIES ACCORDED TO FOREIGN DIPLOMATIC AND CONSULAR REPRESENTATIVES BY THE GOVERNMENT OF THE UNION OF BURMA

A. Immunities

1. (i) Immunity from legal process and criminal prosecution is granted to:

(a) Members of the diplomatic staffs of foreign embassies and legations (e.g., Counsellors, Secretaries and Attachés, including Army, Navy and Air attachés)

(b) Any other officials not being citizens of the Union of Burma employed directly under the orders of the Ambassadors/Ministers of foreign embassies/legations in their diplomatic capacity.

(c) Servants of whatever nationality employed by an Ambassador/Minister but not servants employed by a member of his staff.

(ii) Inviolability of diplomatic or consular archives.

B. Fiscal Privileges

2. The foreign diplomatic missions and members of their diplomatic staff in the Union of Burma are accorded the following customs concessions on a basis of reciprocity:

(i) Articles such as furniture, stationery, supplies, etc. for the official use of foreign diplomatic missions provided an application is made in respect of each consignment by the Head of the Mission himself.

(ii) The following goods imported by or on behalf of Head of Mission and members of his diplomatic staff:

(a) Baggage of Head of Mission and his family, exemption from customs duty and examination.

(b) Baggage of diplomatic officers and their families, exemption from customs duty and examination provided the goods are imported on first arrival in the Union of Burma of officers and their families.

¹ Received from the Foreign Office of Burma.

- (c) Goods imported by Foreign Diplomatic Missions for official use or by Diplomatic Officers of Foreign Diplomatic Missions in the Union of Burma for their bona fide personal use or for use by their families.
- (d) Samples of produce or manufacture of the countries of the Diplomatic Missions concerned for display in their Offices.
- (e) One motor car for the personal use of the Diplomatic Officer or his family, provided that (for *c*, *d* & *e*) the goods are certified by the Head of the Mission concerned to be either for official or for bona fide personal use and that they (the goods) are covered by the Clearance Certificate issued by the Foreign Office on the basis of reciprocity or in the case of a country in which Burmese Diplomatic Mission has not been opened, on the strength of assurance of reciprocal treatment when a Burmese Mission is opened in that country.

3. Non diplomatic employees of foreign diplomatic Missions in the Union of Burma are accorded, as an act of courtesy, customs concessions in respect of the following:

- (i) Personal and household effects of a reasonable amount when imported at any time within six months of their first arrival to take up their duties in the Union of Burma.
- (ii) Household furniture of a reasonable amount when imported within twelve months of their first arrival.

4. In addition to the above scale of customs concessions, the foreign diplomatic missions and their individual members of diplomatic staffs are allowed, on a basis of reciprocity, refund of customs duty on the following:

Motor spirit and lubricating oils purchased locally for use in motor vehicles operated by a foreign embassy or a legation in the Union of Burma and by individual members of foreign embassies or legation.

5. Exemption from payment of in-come tax in respect of the following is accorded to all embassies and legations in the Union of Burma:

- (i) Official salaries of Diplomatic or Consular Representatives of a foreign state and members of his staff who (a) are citizens of that foreign state, (b) are ordinarily resident outside the Union of Burma and (c) are resident in the Union of Burma solely for the purpose of performing their duties as members of the staff of the diplomatic or consular representative and
- (ii) Income, profits and gains accruing or arising to Diplomatic Representative of a foreign state and such members of his staff (including domestic servants) who are non-residents of the Union of Burma whether such income is retained in the country of the source or brought into Burma.
- (iii) Any income from house or landed property owned and occupied by Foreign State for official and residential purposes of diplomatic or consular Representative and residential purposes of such members of his staff (including domestic servants) who are non-citizens of the Union of Burma.

6. Exemption from payment of local rates of non-beneficial nature i.e. General Tax collected by the Rangoon Corporation and land Tax collected

by the Rangoon Development Trust is accorded to foreign diplomatic mission on a reciprocal basis.

7. Exemption from payment of Stamp Duty on transfer of Property leviable under the Burma Stamp Act in respect of buildings purchased in the Union of Burma on behalf of foreign governments for diplomatic purpose is accorded to foreign diplomatic missions on a reciprocal basis. This exemption does not include exemption from payment of the tax collected under the Rangoon Development Trust Act.

8. Exemption from payment of Driving Licence Fees, Registration Fees and renewal thereof in respect of motor vehicles belonging to foreign diplomatic missions and members of their diplomatic staffs is accorded on a reciprocal basis.

9. Exemption from payment of Game Licence Fees is accorded to Heads of Missions and their diplomatic staffs on a reciprocal basis.

10. Exemption from payment of Firearms Licence Fees is extended to diplomatic representatives and members of their diplomatic staffs (i.e. Counsellors, Secretaries and Attachés) of diplomatic missions on a reciprocal basis provided the number of firearms does not exceed 2 guns, 2 rifles and 2 revolvers or pistols in the case of each diplomatic representative and (b) 1 gun, 1 rifle and 1 revolver or 1 pistol in the case of each member of his diplomatic staff and (c) 1 gun or 1 rifle or 1 pistol or revolver in the case of each member of his non-diplomatic staff other than menials and servants. The scale of exemption is only a tentative one and is subject to modification when and where necessary.

11. Exemption from payment of Terminal Tax collected under the provisions of Section 70 (1) of the Rangoon Development Trust Act, 1920, is accorded, on a basis of reciprocity, the following on departure from the Union of Burma by air or sea:

- (i) Officers and staffs of the foreign diplomatic missions and their families.
- (ii) Career Consular Officers of foreign states in the Union of Burma and their families, and
- (iii) Officers of foreign Governments who are bearers of diplomatic passports or special passports and their families provided that a similar tax is not imposed in respect of the corresponding officials (and their families) of the Government of the Union of Burma by the governments of the foreign states concerned in their countries.

12. Exemption from payment of radio licence fees in respect of wireless apparatus owned and operated by members of the diplomatic staffs of the foreign embassies and legations are accorded on a basis of reciprocity.

Customs Privileges for Foreign Consular Officers

13. Consuls General, Consuls and Vice-Consuls and Consular Agents and Trade Commissioners of foreign states in the Union of Burma are accorded the following customs concessions on a reciprocal basis:

- (a) Exemption from customs duty in respect of:
 - (i) Articles of office equipment imported for use in the Consulates/ Office of the Trade Commissioner, (ii) Samples of produce or manufacture

of their countries imported for display in their offices, (iii) Personal effects of reasonable amount, household effects and household furniture of reasonable amount and (iv) One motor car for the personal use of each Consular Office/Trade Commissioner or his family if they are imported at any time within a period of twelve months of their first arrival to take up their duties in the Union of Burma, provided the goods are certified by the head of the consulate/Trade Commissioner concerned to be either for official or bona fide personal use and they are covered by clearance certificate issued by the Foreign Office on a basis of reciprocity or in the case of a country in which Burmese Diplomatic Mission/Consulate/Office of the Trade Commissioner, has not yet been opened.

(b) Baggage (accompanied).

Byelorussian Soviet Socialist Republic

(a) PENAL CODE ¹

. . . .

3. Aliens shall be liable under this Code for offences committed by them within the territory of the Byelorussian Soviet Socialist Republic. This article shall not apply to aliens who enjoy the right of extraterritoriality. The question of the criminal liability of such aliens shall be determined through the diplomatic channel.

(b) CODE OF CRIMINAL PROCEDURE ¹

. . . .

178. Searches and seizures may not be carried out in premises occupied by diplomatic representatives or in the residences of the diplomatic representatives and members of diplomatic missions referred to in article 2 of the Regulations concerning the diplomatic and consular missions of foreign States in the territory of the Union of Soviet Socialist Republics (*Sobranie Zakonov Soyuzn SSR*, 1927, No. 5, page 48) or of the families of all such persons, except in the circumstances and subject to the rules set out in article 4 of those Regulations.

NOTE. In his letter of 12 May 1956, the Minister of Foreign Affairs of the Byelorussian Soviet Socialist Republic stated that "Pursuant to article 19 of the Constitution of the USSR and article 17 of the Constitution of the Byelorussian Soviet Socialist Republic, All-Union laws (laws of the USSR) concerning diplomatic and consular immunities also have effect in the territory of the Byelorussian Soviet Socialist Republic." These laws, the list of which was annexed to the said letter, are reproduced *infra* under the Union of Soviet Socialist Republics (a), (b), (e), (f), (g), (h), (i) and (j).

¹ The texts of Article 3 of the Byelorussian Penal Code and of Article 178 of the Byelorussian Code of Criminal Procedure have been provided by the Minister of Foreign Affairs of the Byelorussian Soviet Socialist Republic. Translation by the Secretariat of the United Nations.

Cambodge

a) NOTE DU 6 AOÛT 1956, REÇUE DU MINISTRE DES AFFAIRES ÉTRANGÈRES
DU ROYAUME DU CAMBODGE

Le Ministre des affaires étrangères du Royaume du Cambodge . . . a l'honneur de . . . faire connaître qu'à l'heure actuelle, il n'existe aucune loi, ni texte cambodgien de force législative, définissant l'étendue de l'immunité diplomatique.

1. Le Gouvernement cambodgien, chaque fois qu'il a pu le faire, a exprimé son scrupuleux respect du droit international public.

2. Le régime des privilèges et des immunités diplomatiques sont accordés aux agents diplomatiques accrédités auprès du Cambodge, sur la base de la réciprocité.

3. En matière d'immunité juridictionnelle, les diplomates étrangers et les personnes bénéficiant d'un statut diplomatique (assimilées aux diplomates) jouissent de l'immunité civile et pénale.

4. Lorsqu'un agent diplomatique exerce en tant que partie civile des poursuites devant des juridictions du Royaume, il est présumé avoir obtenu l'autorisation de son gouvernement de renoncer aux immunités qui le couvrent.

5. En matière civile, il est admis par la coutume que l'agent diplomatique ne peut en aucun cas être cité comme défendeur ou témoin.

6. L'inviolabilité de la personne de l'agent rend leur hôtel ou résidence inaccessible aux autorités du pays.

7. Au point de vue fiscal, l'agent diplomatique est exempt de tout impôt direct et personnel et du droit de douane.

8. La courtoisie l'exempte de tout impôt indirect et foncier.

9. Des privilèges spéciaux pourraient être accordés aux diplomates d'un pays particulier qui aura conclu avec le Royaume des conventions en la matière, sur la base de réciprocité absolue.

10. Il en est de même pour le régime des immunités et privilèges consulaires.

11. En principe, le Gouvernement royal accorde le régime de privilèges et immunités consulaires aux consuls étrangers, sur la base d'une convention consulaire conclue entre le pays desdits consuls et le Cambodge. En l'absence d'une telle convention, les privilèges et immunités consulaires sont accordés aux consuls étrangers selon les coutumes internationales.

12. En matière fiscale, les exonérations ne sont accordées aux consuls étrangers que sur la base d'une convention.

Canada

(a) NOTE OF 11 JUNE, 1956 RECEIVED FROM THE PERMANENT REPRESENTATIVE OF CANADA TO THE UNITED NATIONS

" . . . The only piece of Legislation that has been adopted on the subject of diplomatic and consular immunities in Canada consists of the Diplomatic Immunities (Commonwealth Countries) Act, Chapter 54, of the 1954, Statutes of Canada . . ."

(b) DIPLOMATIC IMMUNITIES (COMMONWEALTH COUNTRIES) ACT, ASSENTED TO 26th JUNE, 1954

INTERPRETATION

2. In this Act,

(a) "chief representative" means a person who is recognized by the Government of Canada as the chief representative in Canada of a country in respect of which this Act applies, whether such person is known by the title of High Commissioner for that country or by another title; and

(b) "envoy" means the envoy of a foreign sovereign power accredited to Her Majesty in right of Canada.

APPLICATION

3. (1) Subject to subsection (3), this Act applies in respect of the following countries:

(a) Australia, Ceylon, India, New Zealand, Pakistan, the Union of South Africa and the United Kingdom; and

(b) any country designated under subsection (2) as a country in respect of which this Act applies.

(2) The Governor in Council may by proclamation designate any Commonwealth country, except Canada or any country mentioned in paragraph (a) of subsection (1), as a country in respect of which this Act applies.

(3) Where it appears to the Governor in Council that a country in respect of which this Act applies has, in relation to Canada, failed to accord immunities similar to those provided for by this Act, the Governor in Council may, by proclamation,

(a) declare that this Act does not apply in respect of that country, or

(b) declare that this Act applies in respect of that country only in such manner and to such extent as is specified in the proclamation, and upon the issue of such proclamation this Act applies in respect of that country as specified in the proclamation.

(4) The Governor in Council may by further proclamation amend or revoke any proclamation issued under subsection (3).

IMMUNITIES. — CHIEF REPRESENTATIVE

4. A chief representative is entitled to the like immunities from suit and legal process and the like inviolability of residence, official premises and official archives as are accorded to an envoy.

STAFF

5. (1) Such members of the official staff of a chief representative as are performing duties substantially corresponding to those performed by members of the official staff of an envoy are entitled to the like immunities from suit and legal process as are accorded to members of the official staff of an envoy.

(2) The members of the family of a chief representative or of a member of the official staff of the chief representative to whom subsection (1) applies are entitled to the like immunities from suit and legal process as are accorded to members of a family of an envoy or of a member of the official staff of an envoy, as the case may be.

(3) Members of the domestic staff of the chief representative are entitled to the like immunities from suit and legal process as are accorded to members of the domestic staff of an envoy.

(4) Notwithstanding anything in this section, no person who is a member of the official staff or domestic staff of a chief representative of a country and who is a citizen of Canada is entitled under this section to immunity from suit or legal process except in respect of acts done or omitted to be done in the course of the performance of his duties as a member of such staff, nor are the members of his family entitled as such under this section to any immunity from suit or legal process.

OTHER OFFICIALS

6. The Governor in Council may by order confer upon any person in the service of the government of a country in respect of which this Act applies, who holds any office of a kind specified in the order that, in the opinion of the Governor in Council, involves the performance of duties substantially corresponding to those which, in the case of a foreign sovereign power, would be performed by a consular officer, the like immunities from suit and legal process and the like inviolability of official archives as are accorded to consular officers of foreign sovereign powers.

GENERAL

7. If in any action or proceeding a question arises as to whether any person is entitled to immunity from suit or legal process under the provisions of this Act or any order or declaration made thereunder, a certificate purporting to have been issued by or under the authority of the Secretary of State for External Affairs, containing any statement of fact relevant to that question, shall, in respect of such action or proceeding, be received in evidence as prima facie proof of the fact so stated.

8. Notwithstanding anything in this Act, a chief representative may waive any immunity to which, under this Act or any order or declaration made thereunder, he or his staff or the members of his family or staff, or any person in the service of the government of the country which he represents, may be entitled.

9. Nothing in this Act affects any action or proceeding commenced prior to the coming into force of this Act.

NOTE. In his Note of 11 June, 1956 the Permanent Representative of Canada to the United Nations stated "that no proclamation of the type contemplated under the provisions of Section 3 of the Act [above] nor any order of the type contemplated under Section 6 of the Act [above] has yet been made by Government in Council".

Ceylon

(a) MEMORANDUM¹ ON PRIVILEGES AND IMMUNITIES GRANTED TO DIPLOMATIC OFFICERS IN CEYLON

The following privileges and immunities are granted by the Government of Ceylon to Diplomatic Officers in Ceylon:

¹ The Memorandum as well as the texts of Laws and Regulations reproduced under Ceylon have been forwarded by the Minister for External Affairs of Ceylon.

1. (a) Exemption from payment of Ceylon Income Tax in terms of Section 7 of the Income Tax Ordinance as amended by Income Tax (Amendment) Act No. 1 of 1949.¹

(b) Exemption from payment of Customs duties in terms of the Order dated 3rd November, 1949, made by the Minister of Finance under Section 21 of the Customs Ordinance (Chapter 185).²

(c) Exemption from payment of Customs duty on petrol in terms of Section 22 of the Customs Ordinance as amended by Customs (Amendment) Act No. 29 of 1952.³

(d) Exemption from payment of licence fees on motor vehicles under Section 31(4) of the Motor Traffic Act No. 14 of 1951.⁴

(e) Exemption from payment of registration fees on motor vehicles under Proviso (1) to Section 229 of the Motor Traffic Act No. 14 of 1951.⁴

(f) Exemption from payment of driving licence fees under Proviso (iii) to Section 229 of the Motor Traffic Act No. 14 of 1951.⁴

(g) Exemption from Stamp duty in terms of Stamp (Amendment) Act No. 26 of 1948.⁴

(h) Exemption from Stamp duty on firearms in terms of Section 46 of Firearms Ordinance (Chapter 139).⁵

2. In addition to the exemptions listed above, diplomatic officers are allowed exemption from payment of direct taxes such as: Radio, dog and bicycle licence fees; rates and taxes.

3. The following concessions are also granted:

Immunity from legal process; inviolability of person, archives and premises; exemption from legal requirements relating to registration of aliens; postal and telecommunication facilities for official purposes; exemption from regulations of Import and Export Control; exemption from exchange control restrictions; diplomatic clearance of ships and aircraft belonging to foreign States.

4. In the grant of the exemptions and the concessions referred to in paragraph 2, the Government of Ceylon is guided by International Diplomatic practice, and they are, in the absence of Statutory provisions, allowed by administrative arrangements on the basis of reciprocity.

(b) INCOME TAX ORDINANCE (CHAPTER 188) AS AMENDED BY INCOME TAX (AMENDMENT) ACT NO. 1 OF 1949

7. (1) There shall be exempt from the tax —

(g) The official emoluments and any income not arising in or derived from Ceylon of:

(i) The Diplomatic Representative in Ceylon (by whatever name or title designated) of the Government of any foreign country and the High Commissioner in Ceylon of the Government of any part of His Majesty's dominions;

¹ See *infra* (b).

² See *infra* (c).

³ See *infra* (d).

⁴ See *infra* (e).

⁵ See *infra* (f).

- (ii) any member of the staff of any such Representative or High Commissioner, any consul or trade commissioner, and any member of the staff of any consul or trade commissioner, who is a citizen or a subject of the country represented by him and does not carry on or exercise in Ceylon any other employment or any trade, business, profession or vocation;

As regards other income, the liability to tax of any person hereinbefore mentioned shall be the same as though he were a non-resident person;

(3) The exemption conferred by sub-paragraph (g) (ii) of sub-section (1) shall not apply in the case of any person referred to in that sub-paragraph unless the Minister, being satisfied that a corresponding official of the Government of Ceylon resident in the country represented by that person is or would be granted similar exemption from income tax by that country, declares that the exemption shall apply in that case.

(c) ORDER MADE BY THE MINISTER OF FINANCE UNDER SECTION 21 OF THE CUSTOMS ORDINANCE (CHAPTER 185) AS MODIFIED BY THE PROCLAMATION PUBLISHED IN *Gazette* EXTRAORDINARY No. 9,773 OF SEPTEMBER 24, 1947

1. Every officer mentioned in Part I of the Schedule hereto is hereby exempted from the payment of customs duty on all goods imported or cleared out of bond, which are certified by or on behalf of such officer to be supplied by or at the cost of the Government he represents for his official use.

2. Every person who belongs to any class of persons specified in Part II of the Schedule hereto is hereby exempted from the payment of customs duty on all goods certified by or on behalf of such person to be imported or cleared out of bond for his personal use, subject to the condition that he shall not be entitled to the exemption if, in the State of which he is a subject or citizen or in which he is domiciled, a similar exemption is not granted or will not be granted to persons of a corresponding class from Ceylon.

3. The Order under section 21 of the Customs Ordinance published in *Gazette* No. 9,933 of December 31, 1948, is hereby revoked.

SCHEDULE

Part I.

- (1) The diplomatic representative in Ceylon of any Foreign State.
- (2) The High Commissioner in Ceylon of any member of the Commonwealth.
- (3) A representative or officer of the Government of any part of the Commonwealth or of any Foreign State, temporarily resident in Ceylon for official purposes, in accordance with any arrangements made with the Government of Ceylon.
- (4) A trade Commissioner in Ceylon for any part of the Commonwealth.
- (5) A Consular representative in Ceylon of any Foreign State.

Part II.

- (1) Any diplomatic representative, High Commissioner or representative or officer referred to in paragraphs (1) to (3) of Part I of this Schedule.

(2) A Trade Commissioner in Ceylon for any part of the Commonwealth, if he is a citizen of the country represented, and is not otherwise engaged in any business occupation or profession.

(3) A Consular representative in Ceylon of any Foreign State, if he is a citizen of the country represented and is not, and has not been, otherwise engaged in any business occupation or profession in Ceylon.

(4) A member of the Staff of any person referred to in any of the foregoing paragraphs in this Part, if such member is a citizen of the country represented, and is not, and has not been, otherwise engaged in any business occupation or profession in Ceylon.

(5) The wife and any dependent child or dependent relative of any person referred to in any of the foregoing paragraphs in this part.

(d) CUSTOMS ORDINANCE (CHAPTER 185) AS AMENDED BY CUSTOMS
(AMENDMENT) ACT No. 29 OF 1952

22. (2) Any petrol purchased or procured locally for the official or personal use of any of the following persons shall be exempted from the payment of import duties:

(a) The diplomatic representative in Ceylon of a foreign State.

(b) The High Commissioner in Ceylon of any member of the Commonwealth.

(c) A representative or officer of the Government of any part of the Commonwealth or of any foreign State temporarily residents in Ceylon for official purposes, in accordance with any arrangements made with the Government of Ceylon.

(d) A trade Commissioner in Ceylon for any part of the Commonwealth.

(e) A consular representative in Ceylon of a foreign State, if he is a citizen of the country represented and is not, and has not been, otherwise engaged in any business, occupation or profession in Ceylon.

(f) Such member of the staff of any person referred to in any of the foregoing paragraphs as may, for the purposes of this sub-section, be specified in a notification made by the Minister of Finance and published in the *Gazette*.

The exemption provided by the preceding provisions of this sub-section shall be granted to a person of the class or description specified in those provisions, if and only if, in the State of which he is a subject or citizen or in which he is domiciled, a similar exemption has been granted to persons of a corresponding class or description from Ceylon.

(e) MOTOR TRAFFIC ACT, No. 14 OF 1951

31.

(4) No licence fee shall be payable on a revenue licence for a motor vehicle belonging to or exclusively used in the service of His Majesty or belonging to the government of any foreign state as the Minister, after reciprocal arrangements in that behalf have been made, may from time to time specify by notification published in the *Gazette* or belonging to the Representative in Ceylon (by whatsoever name, title or designation called) of the Government of any part of His Majesty's Dominions or any other foreign state so specified or the Trade Commissioner or Consular Officer in

Ceylon of any such Government or persons on the staff of any such Representative or Commissioner or Consular Officer.

. . .

229. Where in any case reference is made in this Act to a prescribed fee, reference shall be deemed to be made to such of the fees prescribed by regulation as may be appropriate to the case; and unless otherwise expressly provided by this Ordinance or by regulation made under the Revenue Collection Ordinance every such fee:

(a) Shall be collected by means of revenue stamps to be provided by the person by whom the fee is payable, and to be cancelled by or by order of the Commissioner; and

(b) Shall be credited to the Consolidated Fund;

Provided, however, that no fee shall be payable in respect of:

- (i) The registration of any motor vehicle belonging to or exclusively used in the service of His Majesty or belonging to the Government of the United States of America or such other foreign state as the Minister may from time to time specify by notification published in the *Gazette* or belonging to the Representative in Ceylon (by whatsoever name, title or designation called) of the Government of any part of His Majesty's Dominions or the United States of America or any other foreign state so specified or the Trade Commissioner or Consular Officer in Ceylon of any such Government or persons on the staff of any such Representative or Commissioner or Consular Officer; or
- (ii) The issue of a driving licence to, or the extension of the validity of the driving licence of, any member of the Ceylon Army for the purpose of authorising such member to drive within Ceylon, on military duty, any type or description of motor vehicle used for military purposes; or
- (iii) The issue of a driving licence to or the extension of the validity of any such licence of the Representative in Ceylon (by whatsoever name, title or designation called) of the Government of any part of His Majesty's Dominions or the United States of America or any other foreign state specified by notification published under paragraph (i) of this Proviso or the Trade Commissioner in Ceylon of any such Government or the consular officer in Ceylon of any such Government or persons on the staff of any such Representative or Commissioner or consular officer.

(f) FIREARMS ORDINANCE (CHAPTER 139) OF 1st APRIL, 1917

. . .

46. (i) It shall be lawful for the Minister in his discretion from time to time, by writing under the hand of the Inspector-General of Police, to exempt any person or the holder of any office during his tenure of such office from the operation of all or any of the provisions of this Ordinance, and to cancel or revoke such exemptions when made.

. . .

China

- (a) PROCEDURE FOR THE EXEMPTION FROM DUTY OF ARTICLES FOR THE USE OF FOREIGN DIPLOMATIC AND CONSULAR OFFICERS IN CHINA, PROMULGATED ON 29 JULY 1929, THE 18th YEAR OF THE REPUBLIC OF CHINA ¹

I. STANDARD PROVISIONS RELATING TO EXEMPTION FROM DUTY

(a) All articles for the official or personal use of foreign diplomatic envoys accredited to China, such as ambassadors, ministers, and *chargés d'affaires*, and articles for the personal use of the members of their immediate families shall be exempt from duty.

(b) All personal effects carried by members of the staff of diplomatic mission in China, such as secretaries, *attachés*, and naval and military *attachés*, on their first arrival in China to assume official duties or on returning home shall be exempt from duty.

(c) All articles for the official use of foreign consuls-general, consuls and trade commissioners of rank corresponding to that of consul, and all personal effects carried by them on their first arrival in China to assume official duties or on returning home shall also be exempt from duty.

(d) If any country has enacted regulations restricting the exemption from duty or freedom of entry of official or personal effects carried by Chinese ambassadors, ministers, *chargés d'affaires*, officers of Chinese diplomatic missions, consuls and trade commissioners abroad which differ from the provisions of this section, the official and personal effects of such country's diplomatic, consular and other officers in China shall be treated in accordance with the regulations of that country.

II. PROCEDURE FOR EXEMPTION FROM DUTY

(a) The above-mentioned diplomatic and other officers whose official and personal effects are exempt from duty should forward a detailed list stating their names, official status, the kinds and quantities of effects and the port of entry or exportation, through the Ministry of Foreign Affairs to the Ministry of Finance for consideration and for the issuance of appropriate instructions to the maritime customs authorities.

(b) If, before the maritime customs authorities have received instructions from the Ministry of Finance, the official or personal effects of any of the above-mentioned diplomatic or other officers reach the customs, together with a request for exemption from duty, the customs authorities may, after examining the letter of credence or other official documents, grant exemption from duty and release the effects in accordance with the preceding provisions, with the proviso that the matter shall always be reported to the Ministry of Finance for consideration and approval.

(c) Whenever the official or personal effects of a diplomatic officer as listed above have been released, the customs authorities shall keep a detailed record of the name, official status, kinds and quantities of articles, amount of exemption from duty, the ship on which carried, and the date of arrival, for inclusion in a periodical report for examination by the Ministry of Finance.

¹ The Chinese text of this Procedure has been provided by the Permanent Mission of China to the United Nations. Translation by the Secretariat of the United Nations.

Colombia ¹

(a) CODE OF JUDICIAL ORGANIZATION AND CIVIL PROCEDURE (JUDICIAL CODE)

BOOK I. JUDICIAL ORGANIZATION

TITLE III. HIGH COURT OF JUSTICE

Chapter II. Functions

4. *General Claims Chamber.*

Article 36. The General Claims Chamber shall have exclusive competence in the following matters:

(1) Disputes involving diplomatic agents accredited to the Government of Colombia, in any case in which such disputes are judiciable under international law.

BOOK II. CIVIL PROCEDURE

TITLE XVII. EVIDENCE

Chapter VII. Witnesses

Appearance.

Article 679. If the testimony of a Minister or diplomatic agent of a foreign State, or of a member of his suite or family, is required, a copy of the pertinent documents shall be transmitted to the Minister or agent together with a note requesting him, if he consents, to make a statement, in the form of a sworn declaration, or to authorize the member of his suite or family in question to make a statement in that form. The said note shall be transmitted through the Ministry of Foreign Affairs.

If the testimony of a servant or domestic employee of a diplomatic agent is needed, the permission of the Minister or agent shall be requested through Ministry of Foreign Affairs; when once this permission has been obtained, the ordinary procedure shall be observed

(b) DECREE NO. 615 OF 6 APRIL 1935 TO DEFINE THE PRIVILEGES AND IMMUNITIES OF FOREIGN DIPLOMATIC AGENTS

I

Article 1. The privileges and immunities of foreign diplomatic agents shall be those expressly referred to in this Decree.

Article 2. Diplomatic agents shall enjoy in Colombia the following fundamental privileges:

- (a) Inviolability of the person;
- (b) Inviolability of residence and of correspondence;
- (c) Exemption from certain taxes, as hereinafter more particularly specified;
- (d) Immunity from criminal jurisdiction; and

¹ The Spanish texts of Laws and Regulations reproduced under Colombia have been provided by the Minister for External Affairs of Colombia. Translation by the Secretariat of the United Nations.

(e) Immunity from civil jurisdiction, except as hereinafter otherwise provided.

Article 3. The privileges enumerated in the foregoing article, with the exception of the exemption from taxation, for which more particular provision is made hereinafter, are granted to the following persons:

- (a) All classes of diplomatic agents;
- (b) The entire official staff of the diplomatic mission; and
- (c) The members of their respective families living under the same roof.

Article 4. The immunity of foreign diplomatic agents from civil jurisdiction is recognized in Colombia, except in the following cases:

1. If the diplomatic agent waives this immunity, appearing as a plaintiff;
2. If he is a Colombian national by birth;
3. In the case of actions *in rem*, including possessory actions, which relate to movable or immovable property situated within the territory of the Republic; and
4. In the case of acts connected with some professional activity extraneous to his diplomatic functions.

Article 5. In the cases referred to in the foregoing article, the General Claims Chamber of the High Court of Justice (article 36 of the Judicial Code) shall be competent to hear the dispute.

Article 6. If the testimony of a member of the diplomatic corps is necessary in a proceeding, the competent judicial authority shall transmit to him, through the Ministry of Foreign Affairs, a copy of the pertinent documents together with a note requesting him, if he consents, to make a statement in the form of a sworn declaration. (Article 679 of the Judicial Code.)

The domestic staff of diplomatic agents does not enjoy immunity from jurisdiction in civil or criminal matters. Accordingly, persons in this category can be summoned to appear before Colombian courts. In any case in which it is necessary that a member of the domestic staff of a diplomatic agent should give testimony, the permission of the diplomatic agent shall be requested through the Ministry of Foreign Affairs; when once this permission has been obtained, the ordinary procedure shall be observed. (Article 679 of the Judicial Code.)

Article 7. The Ministry of Foreign Affairs shall provide the members of the diplomatic corps with diplomatic passes which shall serve as identity cards for the purpose of admission to the diplomatic galleries of the Legislative Chambers and also on any occasion on which the holders apply to the police for assistance for themselves or for their vehicles. For the purposes of the postal and telegraph services, these passes shall be accepted in lieu of the usual identity card or other identification papers required in Colombia.

Article 8. Upon the arrival and upon the final departure of an Ambassador or Minister, the Ministry of Foreign Affairs shall request the Board of Directors of the National Railways to place a special coach at his disposal and to transport his baggage free of charge. If for technical reasons this should be impossible, a private compartment shall be placed at the disposal of the diplomatic agent in question.

II

Article 11. The premises occupied by foreign Embassies or Legations which are the property of the Government of the mission in question shall be exempt from the payment of real property taxes.

Article 12. Upon the request of the persons concerned, the Ministry of Foreign Affairs shall ask the Municipal Treasury and the Traffic Department to furnish the members of the diplomatic corps with special licence plates for their vehicles as well as regular licence plates, tax-free.

Article 13. For the purpose of driving a vehicle, a foreign diplomatic agent must be in possession of a driver's licence issued by the Traffic Department. Upon application, this licence shall be issued free of charge, subject to the formality of a driving test. If the applicant should hold a driving licence issued by some foreign authority, the Department shall issue a driver's licence to him without further formality.

Article 14. Police or traffic authorities shall not withdraw the driver's licence of any member of the diplomatic corps, nor shall they impose fines on diplomatic agents. If a diplomatic agent should violate traffic regulations, the authorities should notify the Ministry of Foreign Affairs.

III

Article 15. The Government of Colombia hereby exempts the baggage of diplomatic agents, regardless of their class, and of members of their household from customs duties. By courtesy, their baggage shall not be subject to inspection. (Article 268, Act No. 79 of 1931.)

Article 16. Foreign diplomatic agents may bring into the country, free of customs duties, articles for their official use or for their personal use, provided that they apply for such exemption in writing on special forms which shall be furnished to them by the Ministry of Foreign Affairs and should be signed in each case by the head of mission.

When the merchandise arrives in the capital, the Ministry of Foreign Affairs, upon the request of the person concerned, shall ask that it be exempted from the city tax.

If the merchandise in question consists of alcoholic beverages, the person concerned or his authorized representative shall, upon its arrival in the capital, produce to the Ministry of Foreign Affairs the relevant consignment note and the Ministry, after inspecting the same, shall request that the consignment be exempt from the excise tax.

IV

Article 20. Imports by parcel post shall be exempt from customs duties if addressed to a Legation or to a member of the diplomatic corps. The Foreign Parcel Post Department of the Ministry of Finance and Public Credit shall send a monthly report to the Ministry of Foreign Affairs and to the Ministry of Posts and Telegraphs giving the number of parcels so received, their contents, the kind and quantity of each article, weight and size of each package etc. This report shall give particulars of all the parcels delivered to members of the diplomatic corps in the course of the month.

Article 21. The Government hereby exempts foreign diplomatic agents from the payment of stamp duty, transport taxes and duty on drafts payable

abroad, provided that the diplomatic agent in question can prove that he brought into the country sums equal to those he proposes to remit abroad; and it likewise exempts them from the payment of all direct taxes not expressly referred to in this Decree and of any special taxes which may be instituted in future.

V

Article 22. The diplomatic representatives of countries which are members of the Postal Union of the Americas and Spain shall enjoy postal franchise in conformity with the provisions of article 10 of the Madrid Convention as now in force.

The telegraphic franchise shall be granted only to the representatives of countries which have concluded special reciprocal arrangements with Colombia.

Article 23. The movement of diplomatic pouches shall be governed by special agreements between Colombia and the countries maintaining diplomatic missions at Bogotá. So far as countries members of the [Postal] Union of the Americas and Spain are concerned, the movement of diplomatic pouches shall be governed by the relevant provisions of the Madrid Convention. In all cases, the term "diplomatic pouch" shall mean a pouch carrying only official documents or publications, and no additions may be accepted to the diplomatic pouches which reach Colombia.

VI

CONSULAR AGENTS

Article 24. Every consular agent *de carrière* who is a national of the countries appointing him shall enjoy exemption from customs duties on his baggage when he enters the country, provided that the exemption is requested by the head of the diplomatic mission.

Article 25. Upon application by the head of mission, exemption shall be granted from customs duties on office supplies, official publications, coats of arms and national flags which are intended for use in consular offices.

Article 26. Consular agents of countries members of the [Postal] Union of the Americas and Spain shall enjoy the postal franchise referred to in article 10 of the Madrid Convention.

Article 27. Honorary consular agents who are not nationals of the country they represent shall not enjoy any exemptions other than the postal franchise referred to in the preceding article.

Article 28. The provisions of this Decree shall not affect the validity of the provisions of agreements entered into by Colombia.

Article 29. Diplomatic and consular officers shall enjoy the aforesaid exemptions by virtue of the principle of reciprocity.

(c) DECREE No. 1311 OF 20 APRIL 1950 TO AMEND CERTAIN PROVISIONS OF DECREE No. 615 OF 6 APRIL 1935

Article 1. Subject to strict reciprocity, the foreign diplomatic agents accredited to Colombia who are enumerated in article 1 of Decree No. 1091 of 1948 may import automobiles for their personal use duty-free.

Article 2. If a diplomatic agent wishes to import an automobile under the foregoing article, he shall first submit an application on a special form supplied by the Ministry of Foreign Affairs; this form must be signed by the head of mission.

A diplomatic agent may submit a fresh import application if eighteen months have elapsed since he obtained his previous import licence.

Article 3. A member of the diplomatic corps may sell, free of customs duty, an automobile imported by him, if he has had it for his personal use for eighteen months. The sale of any such automobile before the expiry of that period shall be permitted if the assignment of the diplomatic agent in Colombia should be terminated, subject to the proviso that the owner must have had the vehicle for his personal use for a period of not less than three months. If he has had the vehicle for less than three months, it must not remain in Colombian territory.

In the case of a sale authorized pursuant to the foregoing provision the buyer shall not be liable for the payment of the customs duties which would otherwise be payable, subject to the proviso that the country of which the diplomatic agent is a national grants the same facility to Colombian diplomatic agents.

In any case in which this facility is not granted to Colombian diplomatic agents, the buyer shall be required to pay the customs duty and consular and other fees from which the diplomatic agent had been exempted.

Article 4. An automobile imported by a diplomatic agent duty-free must not be transferred to a third party without prior notice to the Ministry of Foreign Affairs, and unless duly authorized by the said Ministry the Traffic Department shall neither enter the vehicle in the appropriate register nor issue the relevant certificate of ownership.

Article 5. The transfer of vehicles as between members of the diplomatic corps accredited in Colombia shall not be subject to the requirements referred to in articles 3 and 4 above.

Article 6. Upon the request of the persons concerned, the Ministry of Foreign Affairs shall ask the Municipal Treasury and the Traffic Department to furnish the members of the diplomatic corps with special licence plates for their vehicles as well as regular licence plates, tax-free.

Special or diplomatic licence plates shall be issued exclusively for the automobiles used by the diplomatic agents specifically mentioned in article 1 of Decree No. 1091 of 1948.

Other vehicles belonging to the diplomatic missions, if registered as the property of their Governments, shall receive official licence plates free of city taxes.

Article 7. The Government hereby grants exemption from the gasoline tax in respect of automobiles owned by foreign diplomatic agents, provided that the application for such exemption is made on a special form, signed by the head of mission, and states that Colombian diplomatic agents enjoy reciprocity of treatment in the foreign country concerned.

Article 8. A consul-general *de carrière* who is a national of the country appointing him may, within a limited period after his arrival, bring an automobile into Colombia for his private use. Upon application by the head of the diplomatic mission concerned, and subject to strict reciprocity, the necessary import licence and exemption from customs duties shall be granted.

An automobile imported in this way must not be sold by the consular agent until he has had it for his personal use for two years; this provision shall not be applied strictly, however, in the event of the termination of his mission before the expiry of the said period of two years.

The buyer shall be required to pay to the Treasury the customs duty and consular and other duties from which the consular agent had been exempted.

Article 9. Articles 17, 18 and 19 of Decree No. 615 of 1935 are hereby repealed.

Costa Rica

(a) MEMORANDUM ¹ ON THE LAWS AND REGULATIONS GOVERNING DIPLOMATIC AND CONSULAR IMMUNITIES, ANNEXED TO THE NOTE OF 9 JANUARY 1956 RECEIVED FROM THE PERMANENT REPRESENTATIVE OF COSTA RICA TO THE UNITED NATIONS

1. With reference to your communication No. 17.11-1-01-9283-T of 15 November 1955 regarding the request by the Secretary-General of the United Nations for information concerning the laws and regulations which in Costa Rica govern diplomatic and consular immunities, I am instructed by the *Procurator General* of the Republic to communicate to you the following reply, which has been approved by him.

2. The Office of the *Procurator General* has on several occasions expressed the opinion that the prerogatives and immunities granted to diplomatic officers in conformity with the universally accepted principles of public international law can be classified into three groups or categories, *viz.*: personal immunity, independence, and prerogatives by courtesy. It was also stated on three occasions that, in general, the diplomatic prerogatives in question are governed by international law, irrespective of the provisions of municipal law and however averse the latter may be to acknowledging these privileges; but that a number (now a large number) of countries, with the object of confirming those prerogatives, embodied the said principles in their municipal law, with the logical result that these become part of the legislation and so effectively binding.

3. The said prerogatives may therefore be classified as follows: (a) personal immunity; (b) immunity from jurisdiction; and (c) prerogatives by courtesy. The first of the three categories concerns specifically "personal inviolability of immunity". The second is regarded as a corollary of the first and covers "exemption from jurisdiction". The third and last category relates to "exemption from certain taxes". These three categories of prerogatives are all expressly referred to in the Convention regarding Diplomatic Officers signed at Havana on 20 February 1928,² which is in force in Costa Rica, having been ratified by Act No. 40 of 20 December 1932 (pages 443 to 450 of the Compilation of Laws, first semester). . . . Furthermore, the exemption from criminal jurisdiction is expressly confirmed by article 3 of the Penal Code, which provides:

¹ This Memorandum consists of a letter dated 6 December 1956 addressed by Mr. Hector Julio Gonzalez P., *Fiscal Especifico*, to Mr. Rodolfo Loría Brealey, Head of the Treaties Section, Ministry of Foreign Affairs. Translation by the Secretariat of the United Nations.

² See *infra*, Second Part, I, Treaty No. 2.

“The criminal law of Costa Rica shall apply to any person who commits a punishable act in the national territory, which term includes the air space and territorial waters, Costa Rican legations, naval vessels and military aircraft and Costa Rican merchant vessels and aircraft on the high seas or in free air space, this provision to be subject to the exceptions which are recognized by international law by reason of immunity or extritoriality.”

4. So far as the prerogatives by “courtesy” are concerned, the exemption mentioned above is confirmed by article 15, read in conjunction with article 17, of Act No. 17 of 25 January 1939 relating to “Diplomatic and Consular Baggage and Customs-free Allowances”.

5. In its provisions concerning consuls, the said Act (article 16) grants the prerogatives by “courtesy” to career consuls, and to the wife and children of any such consul if travelling with him. With regard to the personal immunity proper of consuls and to their exemption from jurisdiction, the legal literature on diplomatic and consular law is extensive but in no wise clear or consistent, since a great many writers of standing are of the opinion that consuls are entitled to personal and jurisdictional immunities, while others, of equally high standing, are of the contrary opinion. Nor has there been unanimity, one way or the other, in the provisions of municipal law. The majority of learned authors, however, holds that consuls are not entitled to the prerogatives in question — personal immunity and exemption from jurisdiction — and that these attach exclusively to diplomatic office.

6. Actually, Costa Rican legislation does not contain any provisions on the subject; the problem has been dealt with by consular conventions which define the status of consuls and which, in keeping with the views of learned authors, grant exemption from criminal jurisdiction but not from civil jurisdiction. A typical provision is article II of the Consular Convention between the United States of America and Costa Rica signed at San José on 12 January 1948¹ and ratified by Act No. 14 of 25 January 1950.

7. I have set forth above the legislative provisions and the principles which in Costa Rica govern “Diplomatic and Consular Immunities”, which were the subject of your inquiry.

Cuba

(a) MEMORANDUM ON PRIVILEGES AND IMMUNITIES OF FOREIGN DIPLOMATIC OFFICERS ACCREDITED IN CUBA²

Diplomatic privileges and immunities apply in accordance with the principle of extraterritoriality, or in conformity with bilateral or multilateral agreements or the provisions of internal legislation, subject in all cases to reciprocity.

Diplomatic officers of all classes are granted almost absolute penal, civil and fiscal privileges and immunities. In some cases these extend to the members of the diplomatic household.

Apart from the universally accepted principles of international law, the following legal instruments directly or indirectly regulate diplomatic immu-

¹ See *infra*, Second Part, II, Treaty No. 10.

² Received in Spanish from the Ministry of State of the Republic of Cuba. Translation by the Secretariat of the United Nations.

nities in Cuba: the Code of Social Defence; the Criminal Procedure Act; the Convention on Diplomatic Officers; ¹ the Bustamente Code; ² Bilateral treaties; Government regulations.

(b) CODE OF SOCIAL DEFENCE (OFFENCES AGAINST INTERNATIONAL PEACE AND INTERNATIONAL LAW)

Article 162 (a)

(b) Any person who, in the absence of a declaration of war, commits within the territory of the Republic an offence against the head of a foreign State shall be liable to the penalty applicable to the offence plus one-third to one-half of the penalty.

(c) This provision shall apply to offences committed within the territory of the Republic against the diplomatic representatives of a foreign State while these are performing their duties.

(d) Any person who violates the personal immunity or the domicile of the head of another State who is visiting the Republic on official business, or of an accredited representative of another Power, shall be liable to imprisonment for two to six years.

Article 258. Any person who maligns or offends, defames, insults, affronts by word or deed, or threatens a person in authority in the exercise of, or in connexion with, the latter's official duties, either in the absence of such person or by a writing addressed to a third person, shall be liable to imprisonment for one month and one day to six months, or to a fine of 31 to 180 units, or to both.

Article 262. For the purposes of the foregoing articles "a person in authority" means:

(1) A person vested by law with specific responsibilities, whether as an individual or as a member of an official agency or of an ordinary or extraordinary court of justice;

(2) An officer of the department of the public prosecutor;

(3) The head of State of a friendly or allied nation, the diplomatic agents of such a nation or an alien deemed by virtue of a treaty to be a person in authority.

Article 263. A civil servant guilty of any of the offences defined in the foregoing chapters shall, in addition to the penalty of imprisonment or fine applicable to the particular offence, be debarred from public employment for a period of six months and one day to six years.

(c) CRIMINAL PROCEDURE ACT

Article 412. The following shall be exempt from the obligation to comply with a summons to appear in court, but not from the obligation to give testimony:

¹ See *infra*, Second Part, I, Treaty No. 2.

² See *infra*, Second Part, I, Treaty No. 4.

(7) Ambassadors or other diplomatic representatives accredited to the Cuban Government.

Article 413. If the testimony of a person designated in the foregoing article is necessary or desirable, the judge shall visit such person at his domicile or official residence, after giving notice of the day and hour of his visit.

Article 414. Where a person mentioned in article 412 refuses to receive the judge in his domicile or official residence, or to give testimony concerning such questions as may be put to him with regard to the facts of the case, the matter shall be reported to the Supreme Court for appropriate action.

The provisions of the preceding paragraph do not apply to the persons mentioned in article 412 (7). Where such a person refuses to receive the judge or to give testimony, the judge shall so advise the Secretary of Justice at once, submitting an official report, and shall take no further proceedings until informed by the Secretary of the decision taken in the case.

Article 415. A person covered by article 412 (7) shall be invited to give his testimony in writing, for which purpose an interrogatory containing all the points on which a reply is required shall be forwarded to the Secretary of Justice for transmittal to the Secretary of State, in order to enable such person to reply through diplomatic channels.

Article 559. In order to enter and search premises used as a dwelling or as offices by the representative of a foreign Government accredited to the Government of Cuba, the judge shall seek the permission of such representative in an official note requesting a reply within twelve hours.

Article 560. If no reply is received within this time-limit, or if the foreign representative refuses such permission, the judge shall so advise the Secretary of Justice at once, by telegram if possible. Pending receipt of the Secretary's decision, the judge shall refrain from entering and searching the premises but shall take the measures of surveillance referred to in article 567.

NOTE 1. Under Presidential Decree No. 126 of 19 September 1902, published in the *Gaceta Oficial* on 24 September 1902, subpoenas, summonses or orders in civil or criminal actions, and all communications addressed by judges or courts of any kind to diplomatic representatives accredited in Cuba or to members of their households, must be sent through the Ministry of State, provided that the special character or status of the person concerned is a matter of record.

NOTE 2. The privileges and immunities enumerated above are extended solely on a basis of strict reciprocity. Where therefore any country has failed to ratify the relevant treaties and agreements signed by Cuba, each case is examined for conclusive evidence of reciprocity in similar cases.

The second paragraph of article 7 of the Cuban Constitution provides:

“The Cuban State adopts the principles and practices of international law which promote human brotherhood, respect for the sovereignty of nations, reciprocity between States, and universal peace and civilization.”

(d) LEGISLATIVE DECREE NO. 347 OF 17 JULY 1934, AS AMENDED BY LEGISLATIVE DECREE NO. 910 OF 8 MARCH 1935

DIPLOMATIC FISCAL EXEMPTIONS AND IMMUNITIES

CHAPTER I

Diplomatic and Consular Status: Proof of Status

Article 1. Every diplomatic or consular officer accredited to, and taking up residence in, Cuba, and every honorary consul or consular agent established in Cuba shall, upon his request be issued by the Minister of Foreign Affairs with an identity card renewable annually.

The Ministry of Foreign Affairs shall keep a record of the identity cards issued, and if any card is lost or destroyed may renew it as often as it deems necessary.

Article 2. For the purposes of the fiscal exemptions and immunities provided in this Legislative Decree, diplomatic officers and foreign consuls shall furnish proof of their status as such to the authorities of the Republic, officials and individuals concerned by production of the identity card or of a passport bearing the visa of the Ministry of Foreign Affairs.

CHAPTER II

Exemptions granted to diplomats accredited in Cuba

Article 3. Diplomatic officers accredited in Cuba shall be exempt:

- (1) From all personal taxes, whether national or local;
- (2) From all land taxes on the building of the mission, if the building is the property of the Government concerned;
- (3) [1]
- (4) From customs duties on articles for the official use of the mission or for the personal use of the diplomatic officer or his family, to the extent and in the manner laid down by the present Legislative Decree.

Article 4. For the purposes of exemption, personal taxes mean all direct taxes and similar charges regularly and periodically levied upon the taxpayer by name, with the exception of taxes or charges relating to his immovable property or private activities, including indirect and internal unpersonal taxes, where the amount of the tax is easily deductible, as is the case of most sumptuary taxes.

Article 5. Diplomatic officers accredited in Cuba shall be exempt from stamp and registration duties, and from postal telegraphic charges, to the extent that their respective Governments grant similar exemptions to Cuban officers of the same category accredited in their countries.

¹ Paragraph 3 of this article, which has been added by Legislative Decree No. 910 of 8 March 1935, reads as follows: "The employees of a mission, whether or not they form part of the retinue of the head of mission, shall, provided that they are nationals of the State concerned, be exempt from all direct personal and property taxes levied by the State, the Provinces and the Municipalities (other than taxes charged on the possession or ownership of immovable property or on the proceeds from immovable property) and from all taxes on the salaries, fees and daily allowances received by them as remuneration for their services."

The Ministry of Foreign Affairs shall in every case lay down by circular the exemption or exemptions in this class to be granted on a basis of reciprocity.

CHAPTER III

Exemption from customs duties on the baggage and effects of foreign diplomatic officers upon their arrival in the Republic

Article 6. The Government of the Republic shall grant free entry without customs inspection, to the baggage and effects of Ambassadors, Ministers, Chargés d'Affaires, Counsellors, Secretaries and Attachés of all kinds, and of their respective families, provided that such baggage and effects accompany the persons concerned or are imported within six months of their arrival.

The baggage and effects of heads of missions or their families shall be exempt from customs inspection in all cases; the baggage and effects of other diplomatic officers shall be exempt from inspection only when the baggage or effects are for personal use and there is no ground for presuming otherwise.

Article 7. For the purposes of such exemption the following persons shall be considered members of a diplomatic officer's family: his mother, if immediately dependent upon him; his wife; his sons under age, and his unmarried daughters and sisters living in his household.

CHAPTER IV

Free entry of articles imported for the personal use of heads of missions or their families

Article 8. Articles imported solely for the personal or family use of heads of missions shall be admitted free of duty and without inspection by the Custom Houses of the Republic, in conformity with the provisions of this Chapter.

CHAPTER V

Free importation of motor cars for the use of diplomatic officers accredited in Cuba

Article 11. Every diplomatic officer accredited in Cuba may at any time import a motor car for his personal use free of customs duties and other charges of like nature, provided that Cuban diplomatic officers of the same category are granted the same privilege in the sending country.

Article 14. If a vehicle imported under diplomatic exemption is transferred to a private individual, the purchaser shall, if the transfer is made within two years of the date of import, be required to pay to the municipal authorities of the place where he proposes to register the vehicle, for reimbursement to the State, all the duties and other taxes not levied by virtue of the exemption; such charges shall constitute a lien on the vehicle which may be impounded in the event of non-payment; the municipal authorities shall notwithstanding not issue a new licence for the vehicle until the amount of the sum in question has been paid.

When the transfer is effected more than two but less than four years after the date of importation the new owner shall be required to pay only half

the amount of the duty, unless the person or firm concerned is a dealer in motor vehicles, in which case the new vehicle licence shall not be issued until the full amount of the duty has been paid.

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CHAPTER VI

Tax exemptions on motor fuels for the use of Diplomatic Corps accredited in Cuba

Article 16. Fuels of all types used by the motor vehicles of the foreign Diplomatic Corps accredited in Cuba shall henceforth be exempt from customs duties and other taxes levied thereon; the special form of exemption laid down in this Chapter shall remain in abeyance until the Government decides otherwise.

Article 17. To qualify for the exemption vehicles must be registered with the Ministry of Foreign Affairs.

The head of the mission shall apply to the Ministry of Foreign Affairs, using the form adopted by the latter, stating the number of vehicles to be used, their make, capacity, engine number, and vehicle licence number, together with the approximate amount of fuel required monthly.

If there is no impediment of a diplomatic nature, the Ministry of Foreign Affairs shall grant authorization for the supply of fuel, on the responsibility of the head of the mission, and shall communicate such authorization, together with all supporting documents, to the President of the Automobile Club of Cuba and to the Chief Customs Inspector at Havana.

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CHAPTER VII

Exemptions from customs duties on baggage and effects imported by consuls de carrière upon their arrival in the Republic

Article 19. Baggage and personal and household effects of consuls *de carrière* accredited to and arriving in Cuba, and of members of their family living with them, shall be admitted free of customs duties and other taxes of the like nature upon their arrival in the Republic; the provisions of article 7 above shall apply to members of their families *mutatis mutandis*.

Article 20. The exemption shall apply only if the articles and effects in question accompany the consular officer or are received within six months of his arrival.

Article 21. This exemption shall be granted upon application to the Ministry of Foreign Affairs by the legation concerned; if there is no legation accredited in Cuba, the person concerned should identify himself by means of his consular commission or other official documents.

CHAPTER VIII

Other tax exemptions enjoyed by consuls de carrière

Article 22. Consular officers and consulate employees who are nationals of the sending State shall, if they are not engaged in business for gain, be exempt from all national, State, provincial or municipal taxes on their person or property, other than taxes on the possession or ownership of immovable property situated in Cuban territory or income therefrom.

Article 23. Consular officers and employees who are nationals of the Sending State shall be exempt from taxes on wages, salaries and other emoluments received by them in payment for their consular services.

Article 24. An employee who replaces a consular officer during his absence or for any other reason shall enjoy the same tax immunities and prerogatives while he is acting as consular officer.

CHAPTER IX

Importation of articles for the exclusive use of the offices of consuls de carrière established in Cuba

Article 25. On the application of the persons concerned, uniforms, insignia, coats of arms, flags, printed matter and office suppliments by foreign Governments for the official use of consuls *de carrière* accredited in Cuba or for their offices only, shall be admitted free of customs duties and other taxes of like nature.

Article 28. The provisions of chapter V, concerning the free entry of motor vehicles for the use of accredited officers of the diplomatic corps, shall also apply to consuls *de carrière*.

Applications for customs clearance shall be made to the Ministry of Foreign Affairs through the legation concerned or, if there is no legation accredited in Cuba, by the persons concerned who should identify themselves where necessary by the production of their consular commissions or, failing these, of some other authentic official document.

CHAPTER X

Consular agents or honorary consuls

Article 29. For the purposes of this Legislative Decree, consular agents and vice-consuls, whether or not they are nationals of the State they represent and whatever the title conferred upon them shall be deemed to be honorary consuls if, in addition to their consular duties, they engage in some other gainful employment or profession within the territory of the Republic.

Article 30. Honorary consuls or consular agents who engage in trade or any gainful employment or profession other than their consular duties, shall be subject, in the matter of tax exemptions, to local jurisdiction in respect of all their activities not related to the consular service.

Article 31. Notwithstanding the provisions of the previous article, premises used for the offices and archives of honorary consuls or consular agents shall be exempt from all national or municipal taxation, provided that they are suitably separated from the remainder of the establishment, counting-house or office in which the consul or consular agent exercises his other customary occupations.

CHAPTER XI

*Personal effects of Heads of State and members of their suites and representatives of other Governments, and important foreign personages*¹

Article 32. Entry free of duty and tax and without customs inspection may be granted, whenever the Minister of Foreign Affairs decides to extend this courtesy, in respect of the baggage and personal effects of persons in the following categories:

- (a) Heads of State and members of their suites, provided that they are not travelling incognito;
- (b) Delegates and representatives of foreign Governments attending meetings and conferences to be held in Cuba;
- (c) Representatives of the League of Nations and its dependent bodies;
- (d) Important foreign personages in transit through the Republic;²
- (e) Special representatives of foreign scientific bodies arriving in the Republic to conduct research or a particular study.

The same exemption shall be granted in respect of apparatus, materials and supplies therefor imported by persons in this category for such purposes.

CHAPTER XIV

International reciprocity

Article 40. The granting of the diplomatic fiscal exemptions and immunities established by this Legislative Decree shall in all cases be subject to the strictest observance of the rule of international reciprocity.

Article 41. Notwithstanding the general restrictions or limitations imposed by the Legislative Decree in respect of specified fiscal immunities and exemptions, the latter may in particular cases be widened or extended to specified Foreign Service officers of other nations, at the discretion of the Government, for reasons of reciprocity or for convenience.

Article 42. Reciprocity *per se* does not impose a duty, whether based on convenience or on courtesy.

Article 43. When a particular immunity or exemption is claimed on grounds of reciprocity, not embodied in an international agreement, the Government is free to grant or withhold the immunity or exemption, as the best interests of the Republic may require.

¹ Although the present Chapter refers solely to foreign Heads of State and members of their suites, delegates and representatives of other Governments and important foreign personages, it should not be taken as excluding Cuban nationals who return to Cuban territory on diplomatic passports and are considered by the Ministry of Foreign Affairs as being by analogy in one of the categories mentioned, although they do not belong to the Foreign Service of the Republic. Traditionally, for reasons of courtesy alone, the great majority of Cuban nationals travelling on a diplomatic passport, especially when they have been fulfilling some mission or special duty as representatives of the Government, are granted the same customs immunities upon their return to the Republic as certain foreigners, provided the issue of the diplomatic passport has been duly authorized by law.

² Possession of a diplomatic passport does not in itself entitle the holder to customs immunity under this head. Each case is settled on its merits by the Minister of Foreign Affairs (see paragraph 1 of this article).

In all cases legislative reciprocity may be required in preference to merely *de facto* reciprocity.

Article 44. It shall be for the Ministry of Foreign Affairs to decide in what cases the principle of international reciprocity shall be applied in the matter of fiscal immunities and exemptions.

CHAPTER XV

General

Article 45. The fiscal exemptions and immunities established by this Legislative Decree shall be without prejudice to any exemptions or immunities which may be granted, either on grounds of international reciprocity or for reasons of courtesy, by municipalities within their own spheres of competence.

Article 46. Provisions of this Legislative Decree restricting, or conflicting with, the clauses of diplomatic and consular agreements concluded by the Republic with a foreign State shall neither wholly nor partially supersede such clauses, which shall remain in effect in respect of all the cases stipulated in such agreements.

Article 47. Cases not provided for in this Legislative Decree shall be settled equitably by the Ministry of Foreign Affairs in conformity with diplomatic and consular usage and practice, taking into account as far as possible the principle of international reciprocity, whenever the interests of the Republic are served thereby.

(e) DECREE NO. 2677 OF 13 SEPTEMBER 1939

REGULATIONS

CHAPTER II

Application and interpretation of the rule of international reciprocity

Article 8. None of the tax exemptions and immunities established by Legislative Decree No. 347 shall be granted save with due regard to the rule of international reciprocity referred to in article 40 thereof and where such reciprocity is duly substantiated.

Article 9. Where a specific exemption in connexion with which no previous formality is required is claimed on the ground of reciprocity and there is no record of such reciprocity, the exemption may be immediately granted on that occasion only, provided that the official, firm or individual granting the exemption consults the Ministry of Foreign Affairs without delay.

Individuals and bodies corporate granting a tax exemption which is unjustified or greater than permitted by the Legislative Decree on more than one occasion without consulting the Ministry of Foreign Affairs shall be liable to the Treasury for the amount of the exemption.

Article 10. When the rule of international reciprocity in respect of fiscal exemptions and immunities is held to apply, the exemptions and immunities required to be granted may be less than, but shall not exceed those authorized by the Legislative Decree.

Article 11. The Ministry of Foreign Affairs shall from time to time lay down in circulars published in the *Gaceta Oficial* of the Republic the tax exemptions covered by the Legislative Decree, in respect of which the rule of reciprocity applies vis-à-vis other countries and Governments maintaining official relations with the Republic, and shall list the categories of diplomatic and consular officers covered by such exemptions.

CHAPTER III

Exemptions from Customs Duties on the Baggage and Personal Effects of Foreign Diplomats and Consuls and members of their families upon arrival in the Republic

Article 12. The Custom Houses of the Republic shall admit duty free, without inspection, the baggage, furniture and personal effects of heads of missions and their families, upon their arrival in Cuba, provided that the said goods are imported within six months of the arrival of the officer or of the members of his family concerned.

The same privilege shall be extended to other diplomatic officers and their families, provided that the baggage or effects in question are for personal use, although freedom from inspection shall not necessarily be granted if, in the judgement of the Chief Customs Inspector, there is reason to suspect the contrary.

Article 13. The baggage, furniture, and personal effects of consuls *de carrière* arriving in Cuba, and of the members of their families listed in article 7 of the Legislative Decree, shall also be admitted free of customs duties in the same manner and within the same time limits as apply to diplomatic officers, subject to customs inspection.

Article 14. In all such cases exemption from customs duties on articles consisting of household effects for the initial installation of the diplomat or consul to whom the said privilege is granted, and normally applicable to *used* articles, shall also be extended to *new* furniture and other objects imported jointly with used effects, or to any household effects composed exclusively of new objects, including motor-cars, in conformity with the provisions of Chapter V of the Legislative Decree, application for clearance being required in the latter case on the official form issued by the Ministry of Foreign Affairs.

Apart from articles the importation of which is prohibited, and without prejudice to the provisions concerning heads of missions and their families, in Chapter IV of the Legislative Decree foodstuffs and provisions of all kinds, beverages, tobacco, cloth and textiles, not made up, carried by other diplomatic officers together with their baggage, may be admitted duty free on a single occasion only, provided that they are declared and that, in the judgement of the Minister of Foreign Affairs, the granting of such exceptional privilege is justified.

Article 15. Personal and household effects belonging to diplomats and consuls and members of their families shall so far as possible be imported in a single consignment. The privilege of customs exemption may be granted in respect of later consignments taking place within the period indicated in Articles 6 and 20 of the Legislative Decree if they are declared at the same time as the first consignment, and a summary list of their contents is included in the application for clearance, submitted on the form approved by the Ministry of Foreign Affairs.

Article 16. For the purposes of all tax exemptions applicable to them under the terms of the said Legislative Decree, the term "consuls de carrière" shall be taken to mean permanent officials, whether or not they are nationals of the sending State, who are not permitted to engage in Cuba in any gainful employment or profession other than their consular functions.

CHAPTER IV

Free entry of Articles for the Personal Use of Heads of Missions or their Families, and Method of Consignment

Article 17. In accordance with article 8 of the Legislative Decree, articles of all kinds imported exclusively for the personal or family use of Heads of Diplomatic Missions accredited in Cuba shall be admitted duty free, without inspection, by the Custom Houses of the Republic.

Article 18. In accordance with the universally recognized rules of international law, heads of mission shall, for the purposes of the said Legislative Decree and the present Regulations, include Nuncios, Internuncios and Legates, Ambassadors, Ministers Plenipotentiary, Ordinary and Extraordinary, and Chargés d'Affaires, including chargés d'affaires appointed *ad interim*.

. . .

Article 20. Cases or packages containing articles to be admitted free of duty must be clearly and legibly addressed, either to the diplomatic mission as such (Nunciature, Apostolic Delegation, Embassy or Legation) or to the head of the mission in person.

The Chief Customs Inspector, in the case of ordinary consignments arriving as general cargo, or the Postmaster-General, in the case of postal packages, shall immediately notify the addressee in writing, stating the number of packages and the plan of consignment so that application for clearance may be made and dealt with without delay.

The provisions of the two preceding paragraphs shall also apply in the case of articles for the exclusive use of offices of consuls *de carrière* established in Cuba, as provided in article 25 of the Legislative Decree.

Article 21. Chargés d'Affaires *ad interim* shall, while serving as such, be entitled to customs immunity and exemption on the same terms as permanent heads of mission. Heads of diplomatic missions shall officially notify the Ministry of Foreign Affairs, when they are about to leave the country, of the date of their departure and of the name of the officer who will replace them (Chargé d'Affaires *ad interim*). Similar notification shall be given of their return.

Article 22. The provisions of chapter IV of the Legislative Decree on the free entry of articles imported for the personal or family use of heads of mission, and the complementary provisions of the present regulations, shall be without prejudice to the Customs Regulations and other laws and regulations concerning merchandise the importation of which is, or may be, prohibited.

CHAPTER V

Duty-free importation of motor-cars for the use of Diplomatic Officers and Career Consuls accredited in Cuba

Article 23. With due regard to the rule of international reciprocity, diplomatic officers of whatever category and consuls *de carrière* accredited in Cuba may at any time import, directly or through a third party, a motor-car for their private use, free of customs duties and similar charges.

If the vehicle is imported by a third party on behalf of an officer entitled to exemption, the application for clearance submitted by the head of mission concerned on the official form stipulated in the Legislative Decree shall, in addition to indicating the name of the consignee, if possible be accompanied by a copy of the contract or of the bill of sale for the vehicle.

CHAPTER VII

Consular agents or honorary consuls

Article 45. For the purposes of Chapter X of the Legislative Decree concerning the tax exemptions to which honorary consuls are entitled, honorary consuls means consular agents and vice-consuls, whether or not they are nationals of the State they represent, and whatever the title conferred upon them, who in addition to their consular duties may lawfully engage in some other gainful employment or profession within the territory of the Republic.

The fact that the person concerned does not engage in any gainful profession or commercial activity in Cuba, whether or not he is permitted to do so, shall not *per se* affect his status as honorary consul for legal purposes.

Article 46. Notwithstanding the provisions of article 30 of the Legislative Decree, the Ministry of Foreign Affairs may, as a courtesy measure, extend to honorary consuls who are not Cuban nationals the exemption from customs duties provided in chapter VII of the Legislative Decree for consuls *de carrière* upon their arrival in the Republic. Applications shall be made through the legation concerned, if any, or by the officer concerned.

CzechoslovakiaMEMORANDUM ¹ ON CZECHOSLOVAK LEGAL REGULATIONS CONTAINING PROVISIONS REGARDING THE PRIVILEGES AND IMMUNITIES ENJOYED BY MEMBERS OF THE DIPLOMATIC AND CONSULAR CORPS IN THE CZECHOSLOVAK REPUBLIC**A. CIVIL LAW**

CIVIL PROCEDURE

(a) Act No. 142/50, *Sbírka Zákonů*, 25 OCTOBER 1950, AS PROMULGATED BY PUBLIC NOTICE No. 2/53, *Sbírka Zákonů* (RULES OF CIVIL PROCEDURE)

Section 624. Persons enjoying extritorial rights in the Czechoslovak Republic shall be subject to the jurisdiction of Czechoslovak courts only:

(a) If they voluntarily surrender to the jurisdiction of Czechoslovak courts, or

¹ Received from the Permanent Mission of Czechoslovakia to the United Nations. Translation by the Secretariat of the United Nations.

(b) In cases involving immovable property owned by them and situated in the Czechoslovak Republic, or their rights in such immovable property belonging to other persons, or rights, with the exception of right to the payment of rent, arising from the lease of such immovable property.

Section 625. Judicial measures, and especially measures of execution, may be taken against persons enjoying extritorial rights, or in extritorial buildings or premises only to the extent permitted by international law. A representative of the Ministry of Foreign Affairs may be present at such measures.

Section 626. (1) Service of documents on persons enjoying extritorial rights, or persons in extritorial buildings or premises, shall be effected through the Ministry of Foreign Affairs.

(2) If service cannot be effected in the manner aforesaid, the court shall appoint a curator for the receipt of documents or the protection of rights; in the case of persons enjoying extritorial rights the court shall take such action only if such persons are subject to the jurisdiction of Czechoslovak courts.

B. CRIMINAL LAW

CRIMINAL PROCEDURE

ACT No. 87/50, *Sbírka Zákonů*, 12 JULY 1950, AS PROMULGATED BY PUBLIC NOTICE No. 1/53, *Sbírka Zákonů* (RULES OF PENAL PROCEDURE)

Section 6. Exceptions to the rules of criminal procedure

1. The jurisdiction of the procurator or the court under this act shall not extend to persons entitled to extritoriality or personal exemption.

2. Where any doubt arises regarding the exemption or degree of exemption of any person from the jurisdiction of the procurator or the court under this Act, a ruling shall be requested from the Minister of Justice; such ruling shall be binding upon the court.

C. ADMINISTRATIVE LAW

I. ADMINISTRATIVE PROCEDURE

(a) ORDINANCE No. 20/1955, *Sbírka Zákonů*, 22 MARCH 1955 (RULES OF ADMINISTRATIVE PROCEDURE)

Section 49. In proceedings administrative organs shall observe the immunities and privileges recognized by international law, by international treaties concluded by the Czechoslovak Republic, or by special internal Czechoslovak regulations.

(b) ORDINANCE No. 20/1955, *Sbírka Zákonů*, 22 MARCH 1955, AS PROMULGATED BY PUBLIC NOTICE No. 73/1955, *Úředny List*, 28 APRIL 1955

Section 49. (Ad section 49, rules of administrative procedure.)

2. The procedure for summoning persons enjoying such immunities or privileges to appear before the courts, for the service of documents on such persons, for their examination as witnesses or experts, for the conduct of searches in their homes, and for the application of measures of execution against them, shall be governed by special regulations. Special regulations shall likewise be made with reference to the procedure for the service of

documents on agencies and organs of foreign States, for the provision of legal assistance by and to agencies and organs of foreign States, and for the service of documents, the conduct of searches and the application of measures of execution in buildings and premises intended for the use of agencies and organs of foreign States.

3. Where in the course of proceedings any doubts arise in points of international law, in particular in matters relating to the scope of immunities and privileges, the validity of international treaties, the provision of legal assistance or the question of reciprocity, the administrative organ shall request the opinion of the competent central authority.

II. ADMINISTRATIVE PENAL PROCEDURE

ACT No. 89/50, *Sbírka Zákonů*, 12 JULY 1950 (RULES OF ADMINISTRATIVE PENAL PROCEDURE)

Section 6. No proceedings under this Act may be instituted against:

. . .

2. Persons entitled to extritoriality or personal exemption.

III. NATIONAL INSURANCE

ACT No. 99/48, *Sbírka Zákonů*, 15 APRIL 1948 (NATIONAL INSURANCE ACT)

Section 11. Exemptions from compulsory insurance

The following persons shall be exempted from compulsory insurance under section 2, para. 1:

(a) Foreign nationals employed by foreign diplomatic and consular missions in the territory of the Czechoslovak Republic, by persons enjoying diplomatic privileges and immunities, or by international organizations, institutions or agencies in the territory of the Czechoslovak Republic which enjoy diplomatic privileges and immunities.

IV. NATIONAL DEFENCE

(a) ACT No. 117/24, *Sbírka Zákonů*, 13 MAY 1924, AS AMENDED BY ACT No. 25/36, *Sbírka Zákonů*, 4 FEBRUARY 1936 (ACT CONCERNING THE REQUISITIONING OF MEANS OF TRANSPORT FOR MILITARY PURPOSES)

Section 4. Exempted means of transport

1. The following means of transport may not be requisitioned under this Act:

- (a) Means of transport for the personal use of:
 - (aa) Persons enjoying extritoriality under international law;
 - (bb) Professional heads of consular missions accredited in the Czechoslovak Republic, and professional officers assigned by foreign Powers to such missions, provided that they are foreign nationals and subject to reciprocity;
- (b) Means of transport belonging to diplomatic and consular missions of foreign Powers in the territory of the Czechoslovak Republic, or belonging to international commissions enjoying extritoriality and intended for their

official use. Means of transport belonging to consulates of foreign Powers shall be exempted only subject to reciprocity.

2. The means of transport referred to in paragraph 1 shall not be subject to registration under this Act.

- (b) ACT No. 68/32, *Sbirka Zákonů*, 12 MAY 1932 (CONCERNING THE REQUISITIONING OF MEANS OF TRANSPORT FOR MILITARY PURPOSES IN TIME OF PEACE)

Section 6. Exempted means of transport

1. The following means of transport may not be requisitioned for military transport purposes under this Act:

- (a) Means of transport for the personal use of:
- (aa) Persons enjoying extritoriality under international law;
 - (bb) Professional heads of consular missions accredited in the Czechoslovak Republic, and professional officers assigned by foreign Powers to such missions, provided that they are foreign nationals and subject to reciprocity;
- (b) Means of transport belonging to diplomatic and consular missions of foreign Powers in the territory of the Czechoslovak Republic, or belonging to international commissions enjoying extritoriality and intended for their official use; means of transport belonging to consulates of foreign Powers shall be exempted only subject to reciprocity.

- (c) ACT No. 131/36, *Sbirka Zákonů*, 13 MAY 1936 (NATIONAL DEFENCE ACT)

Section 68. Exemptions from personal service

(1) The following persons shall be exempted from personal services in all cases, so long as the grounds for exemption exist:

- (h) Persons enjoying extritoriality under international law, members of foreign diplomatic and consular missions, and members of any agencies of foreign States, or of international agencies, provided that such missions or agencies operate in the territory of the Czechoslovak republic with the consent of the Czechoslovak Government and that the persons concerned are not nationals of the Czechoslovak Republic;
- (i) Other foreign nationals, to the extent provided by international treaties or by international law in general.

Section 83. Exemptions from the requisitioning of property

1. Requisitioning may not be imposed in respect of property belonging:

- (a) To foreign diplomatic and consular missions, to persons enjoying extritoriality under international law, to members of foreign diplomatic and consular missions, to any agencies of foreign Powers or to international agencies, provided that such property is used for official or for personal or domestic purposes, that the said missions or agencies operate in the territory of the Czechoslovak Republic with the consent of the Czechoslovak Government, and that the persons concerned are not nationals of the Czechoslovak Republic.

- (d) GOVERNMENT ORDINANCE No. 5/51, *Sbírka Zákonů*, 23 JANUARY 1951
(FOR THE APPLICATION OF THE ACT CONCERNING THE BILLETING OF
MILITARY FORCES AND THE NATIONAL SECURITY CORPS)

Section 7. Exemptions from billeting

1. Military forces or forces of the National Security Corps may not be billeted on premises occupied by:

(a) Diplomatic or consular missions, or persons entitled to extritoriality, subject to reciprocity.

- (e) ACT No. 92/1949, *Sbírka Zákonů*, 23 MARCH 1949
(MILITARY SERVICE ACT)

Section 5. Persons liable to compulsory military service

1. Military service shall be compulsory, subject to the provisions of paragraph 2, for all citizens of the Czechoslovak Republic, with the exception of persons entitled to extritoriality in the territory of the Czechoslovak Republic.

V. HOUSING

- (a) ACT No. 138/48, *Sbírka Zákonů*, 28 APRIL 1948 (ALLOCATION
OF DWELLINGS ACT)

Section 33.

(1) Of the foregoing provisions —

1. The provisions concerning the powers of allocation of the Local National Committees (section 2, paragraph 1, and section 27, paragraph 2) shall not apply to:

(c) Houses used by a foreign State for its diplomatic or consular missions, or dwellings of persons who are members of official or semi-official foreign missions;

2. The provisions concerning the sublease (section 12), exchange (section 13) and partition (section 23) of dwellings shall not apply to:

(b) The houses, dwellings and enterprises referred to in paragraph 1;

3. The provisions concerning the sublease (lease) of surplus rooms in exceptionally large dwellings (section 18) shall not apply to:

(a) The houses and dwellings referred to in paragraph 1, sub-paragraph (c);

4. The provisions concerning the combination of apartments for use otherwise than as dwellings (sections 19 and 20), and concerning the inspection of dwellings (sections 21 and 22) shall not apply to the houses and dwellings referred to in paragraph 1, sub-paragraphs (a) and (c).

- (b) PUBLIC NOTICE No. 236/54, *Úředny List*, 17 NOVEMBER 1954 (HOUSING
ADMINISTRATION BY NATIONAL COMMITTEES)

Section 30. Special Provisions concerning Persons in the Service of Diplomatic Missions of Foreign States

1. The provisions concerning management-tenant relations and the cooperation of tenants in the administration of residential property shall not apply to persons enjoying diplomatic privileges and immunities under inter-

national law, to members of foreign diplomatic and consular missions or to aliens employed by foreign diplomatic and consular missions in the Czechoslovak Republic. All matters concerning the dwellings of such persons shall be dealt with through the Diplomatic Corps Service Bureau.

2. The Ministry of Local Economy and the Ministry of Foreign Affairs, in agreement with the Ministry of Finance, shall determine the manner of and the procedure for the administrative and technical management of the residential property referred to in paragraph 1.

VI. NATIONAL SECURITY

- (a) ACT No. 225/47, *Sbírka Zákonů*, 18 DECEMBER 1947 (WILDLIFE PROTECTION ACT)

Section 37.

The provisions of sections 33 to 36 shall not apply to members of the diplomatic corps or to other persons enjoying the privileges of members of diplomatic missions in the Czechoslovak Republic, or to foreign professional consuls in the Czechoslovak Republic, subject to reciprocity. In the case of such persons, the identity card issued by the Ministry of Foreign Affairs for a period of one calendar year, bearing the holder's photograph, shall serve in lieu of the requisite hunting licence.

- (b) PUBLIC NOTICE No. 135/53, *Úředny List*, 28 APRIL 1953 (ALIENS' REGISTRATION AND RESIDENCE PERMITS)

Section 17. Exemptions

Aliens recognized by the Ministry of Foreign Affairs as members of the diplomatic, clerical or auxiliary staffs of foreign diplomatic and consular missions in the Czechoslovak Republic, and members of their families, shall not be subject to the obligations specified herein, provided that such persons are registered at the Ministry of Foreign Affairs and that Czechoslovak citizens having similar status in the respective foreign States are exempted from such obligations.

- (c) PUBLIC NOTICE No. 196/53, *Úředny List*, 30 JUNE 1953 (ROAD TRAFFIC)

Section 91. Marking of diplomatic vehicles and vehicles used in international traffic

1. Motor vehicles of members of foreign diplomatic and consular missions in Czechoslovakia, or vehicles of persons of equivalent status, may be furnished with an additional oval plate bearing the letters CD or CC.

- (d) PUBLIC NOTICE No. 365/53, *Úředny List*, 5 DECEMBER 1953 (REGULATIONS FOR THE APPLICATION OF THE ARMS AND AMMUNITION ACT)

Section 13. Exemption of certain persons

1. The provisions of the Act and of this Notice concerning the possession and carrying of arms and ammunition shall not apply to:

(a) Members of the diplomatic corps, other persons enjoying diplomatic privileges and immunities in the Czechoslovak Republic, and professional consuls, subject to reciprocity;

(b) Employees and agents of foreign States, where the carrying of arms (ammunition) by such persons in the territory of the Czechoslovak Republic is permitted by international agreements or treaties.

(e) ACT No. 269/36, *Sbírka Zákonů*, 21 OCTOBER 1936 (USE OF FLAGS, COATS-OF-ARMS AND OTHER EMBLEMS)

Section 4. Permanent public use of State and other public emblems

(3) Apart from persons enjoying extritoriality and consuls of foreign States, only persons who have received authorization to do so from the Provincial Office having local jurisdiction may permanently and publicly use emblems of State sovereignty of foreign Powers in the territory of the Czechoslovak Republic.

VII. TELECOMMUNICATIONS, BROADCASTING AND TELEVISION

(a) TELEGRAPH REGULATIONS IN FORCE SINCE 1 MARCH 1948

Section 24, paragraph 6

(a) B2. Credit may also be allowed in respect of fees for telegrams sent at telegraph office counters; deferred payment telegrams, however, may be sent only by:

(a) Senders of Government telegrams.

Section 39, paragraph 1

(d) B2. Government telegrams are telegrams marked as such by the sender and sent by:

(d) Diplomatic or consular representatives of Governments which are members of the International Telecommunication Union.

(b) TELEPHONE REGULATIONS IN FORCE SINCE 1 MARCH 1947

Section 40.

. . .

2. Government calls are trunk-calls expressly registered as Government calls and made by diplomatic and consular representatives of foreign Governments in connexion with official business.

Government calls shall be registered, according to their degree of urgency, as ordinary, urgent, or emergency Government calls.

(c) INTERNATIONAL TELECOMMUNICATION CONVENTION, BUENOS AIRES 1952

Article 37. Priority of Government Telegrams and Telephone Calls

Subject to the provisions of articles 36 and 46, Government telegrams shall enjoy priority over other telegrams when priority is requested for them by the sender. Government telephone calls may also be accorded priority, upon specific request and to the extent practicable, over other telephone calls.

Article 38. Secret Language

1. Government telegrams and service telegrams may be expressed in secret language in all relations.

ANNEX 3

Definitions

Government Telegrams and Government Telephone Calls: These are telegrams or telephone calls originating with any of the authorities specified below:

. . .

diplomatic or consular agents.

. . .

Replies to Government telegrams as defined herein shall also be regarded as Government telegrams.

(d) PUBLIC NOTICE No. 358/51, *Úředny List*, 20 NOVEMBER 1951 (RADIO LICENCE REGULATIONS)

Section 8. Exemption from fees

Subject to reciprocity, no radio licence fees shall be charged for licences issued to:

(a) Diplomatic and consular missions of foreign States in the territory of the Czechoslovak Republic, and their employees, provided that he latter are not Czechoslovak citizens.

(e) PUBLIC NOTICE No. 86/54, *Úředny List*, 24 APRIL 1954 (PUBLIC NOTICE SUPPLEMENTING THE RADIO LICENCE REGULATIONS)

Article I. Public Notice No. 358/1951, *Úředny List*, promulgating the Radio Licence Regulations, shall be supplemented as follows:

A new section 16 (a) shall be inserted after section 16 and shall read as follows:

Section 16 (a).

The present Notice shall also apply to television receiving sets.

VIII. FINANCIAL ADMINISTRATION

(1) *General regulations*

ACT No. 331/22, *Sbirka Zákonů*, 9 NOVEMBER 1922 (EXEMPTION OF PERSONS ENJOYING EXTERRITORIALITY FROM STATE AND OTHER PUBLIC TAXES AND CHARGES)

Section 1.

(1) Heads of foreign States and their retinue, diplomatic representatives accredited to the Government of the Czechoslovak Republic and all members of their families living under their roof, members of international commissions, and other persons entitled to exterritoriality under international law, shall be exempt from State and other public taxes and charges, provided that they are not Czechoslovak citizens and subject to reciprocity.

(2) The persons to whom such exemption shall apply, the taxes and charges affected and the degree of exemption shall be determined by the Minister of Finance in agreement with the Minister of Foreign Affairs and, where necessary, with other competent Ministers, who shall also decide

whether State and other public taxes and charges which would otherwise be payable by such of the persons aforesaid who are not themselves liable for payment of taxes or other charges are to be paid by the Czechoslovak State.

Section 2.

(1) In the case of excise taxes and charges, the turnover-tax and the luxury tax, and customs duties and licence fees, the exemption provided under section 1 shall apply only to articles imported from or exported to foreign countries and intended for the personal use or consumption of the persons specified in section 1.

(2) The exemption shall not apply to public charges which represent payment for special benefits or services provided by the State or other public corporations or by other undertakings.

Section 3.

Statutory regulations hitherto in force with reference to the exemption of persons referred to in section 1 from taxes and charges shall not be affected by this Act.

Section 4.

Where it is in the interest of the State that a mission should be granted certain privileges to which only persons enjoying exterritoriality would be entitled under the general principles of international law, the Government may in exceptional cases and by special order grant some of the privileges provided for herein to non-diplomatic missions of foreign States.

(2) *State taxes and charges*

(a) ORDINANCE NO. 278/1915, *Risový Zákoník*, 15 SEPTEMBER 1915

Section 3.

In addition to the legacies and inheritances specified in the schedule as exempt, the following shall be exempt from the inheritance tax:

(3) Movable property passing on the death of diplomatic representatives accredited to the Government of the Czechoslovak Republic, officials and servants employed by them exclusively for official purposes, and members of their families living under their roof, provided that such representatives, their officials and servants and members of their families are not Czechoslovak citizens; and movable property passing on the death of other persons entitled under the principles of international law to exemption from the inheritance tax.

Section 32. Exemption from fees

In addition to the gifts specified in the notes to item 2 and in the note to items 1 and 2 of the schedule, the following shall be exempt from the gift tax:

(3) Gifts of movable property belonging to diplomatic representatives accredited to the Government of the Czechoslovak Republic, to officials and servants employed by them exclusively for official purposes, or to members of their families living under their roof, provided that such representatives, their officials and servants and members of their families are not

Czechoslovak citizens; and gifts of movable property belonging to persons entitled under the principles of international law to exemption from the gift tax.

- (b) PUBLIC NOTICE No. 397/1915, *Ríšký Zákoník*, 29 DECEMBER 1915

Section 5.

Decisions in matters relating to claims to exemption from the inheritance tax pursuant to the principles of international law shall be made by the Ministry of Finance.

- (c) ACT No. 76/52, *Sbírka Zákonů*, 11 DECEMBER 1952 (WAGE TAX ACT)

Section 2.

(2) Subject to reciprocity, diplomatic representatives accredited to the Government of the Czechoslovak Republic, professional consuls and persons entitled to extritoriality shall not be liable to the wage tax unless they are Czechoslovak nationals.

- (d) PUBLIC NOTICE No. 369/52, *Úředny List*, 23 DECEMBER 1952 (PUBLIC NOTICE FOR THE APPLICATION OF THE WAGE TAX ACT)

Liability to Taxation. Ad Section 2 of the Act

(4) Subject to reciprocity, employees of foreign diplomatic and consular missions in Czechoslovakia shall not be liable to taxation, provided that they are foreign nationals. Employees of foreign diplomatic and consular missions who are Czechoslovak nationals shall be liable to taxation. Unless the tax is deducted by the foreign diplomatic or consular mission, the provisions of section 14, paragraphs 3 and 4, of the Act shall apply in respect of such persons.

- (e) ACT No. 78/52, *Sbírka Zákonů*, 11 DECEMBER 1952 (PERSONAL INCOME TAX ACT)

Section 21. Exemptions

The following persons shall be exempt from the tax:

(1) Subject to reciprocity, diplomatic representatives accredited to the Government of Czechoslovak Republic, professional consuls and other persons entitled to extritoriality, unless they are Czechoslovak citizens.

- (f) PUBLIC NOTICE No. 370/52, *Úředny List*, 28 DECEMBER 1952 (PUBLIC NOTICE FOR THE APPLICATION OF THE HOUSE TAX ACT)

Section 3. Exemptions

(1) The following shall be exempt from the tax:

(b) Subject to reciprocity, buildings belonging to foreign States and used by diplomatic representatives and professional consuls accredited to the Government of the Czechoslovak Republic;

(3) *Administrative fees*

ORDINANCE No. 9/52, *Sbírka Zákonů*, 7 APRIL 1952 (SCHEDULE OF ADMINISTRATIVE FEES)

Section 8. Exemptions and Other Reliefs

In addition to the organs specified in section 10, paragraph 1, of the Act and in the schedules thereto, the following persons shall be entitled to personal exemption from the payment of fees:

(4) Subject to reciprocity, diplomatic representatives accredited to the Government of the Czechoslovak Republic and all members of their families living under their roof, and other persons entitled to extritoriality under international law, provided that they are not Czechoslovak citizens. Such exemption shall not apply to fees payable for special benefits or services.

(4) *Local charges and fees*

PUBLIC NOTICE No. 234/53, *Úředny List*, 20 JULY 1953 (NOTICE FOR THE APPLICATION OF THE ACT CONCERNING LOCAL FEES)

Section 8. Exemptions

(1) No dog licence fee shall be levied in respect of dogs.

(b) Kept by persons entitled to extritoriality under international law or professional consuls accredited to the Government of the Czechoslovak Republic, provided that such persons are not Czechoslovak citizens, and subject to reciprocity.

IX. CUSTOMS, IMPORT AND EXPORT PROCEDURE

(a) ORDINANCE No. 31/54, *Sbírka Zákonů*, 16 JUNE 1954 (ORDINANCE FOR THE APPLICATION OF THE CUSTOMS ACT)

Section 23. Exemption from customs inspection

(2) Subject to reciprocity, customs inspection shall be waived in the case of the following persons travelling to and from foreign countries:

(a) Heads of foreign States, prime ministers of foreign States and their deputies, members of Governments of foreign States, chairmen and vice-chairmen of the legislatures of foreign States, and members of their retinues;

(b) Heads of foreign diplomatic missions accredited to the Government of the Czechoslovak Republic (ambassadors, ministers, *chargés d'affaires*) and counsellors, secretaries and attachés (military, commercial and other special attachés) of foreign diplomatic missions in Czechoslovakia;

(c) Chairmen and members of foreign delegations to diplomatic conferences convened in the Czechoslovak Republic, and other persons enjoying extritorial rights under international law (e.g. the Secretary-General of the United Nations, members of the Danube Commission);

(d) Heads of regular consular missions of foreign States in the Czechoslovak Republic (consuls-general, consuls and vice-consuls), provided that they are professional consular officials and nationals of the sending State;

(e) Members of the families of persons listed under (a) to (d), if travelling with the latter.

(4) Subject to reciprocity, sealed diplomatic mail carried by a courier in the means of transport used by the courier himself shall not be subject to customs inspection. The courier shall produce a list drawn up and sealed by the authority dispatching the diplomatic mail. The list shall indicate the number of pieces of diplomatic mail carried and the type of packing used; the individual pieces and the type of packing used must conform to the particulars stated in the list. The same shall apply to sealed diplomatic mail (dispatches) sent otherwise than by courier; the list accompanying such mail shall, however, also indicate the address of the authority or organ to which the mail is consigned.

Section 60. Articles for the use of members of diplomatic staffs and other persons enjoying extritoriality and for the official use of diplomatic and consular missions

The exemption from customs duties of articles for the use of members of diplomatic staffs and other persons enjoying extritoriality, and for the official use of diplomatic and consular missions of foreign States in the Czechoslovak Republic shall be governed by special regulations.

(b) PUBLIC NOTICE No. 168/54, *Úředny List*, 30 JULY 1954 (CONCERNING THE EXEMPTION FROM CUSTOMS DUTIES OF ARTICLES IMPORTED FOR THE USE OF PERSONS AND ORGANS ENJOYING PRIVILEGES AND IMMUNITIES IN THE CZECHOSLOVAK REPUBLIC)

In pursuance of the provisions of sections 38 and 54 of the Customs Act, No. 26/53, *Sbirka Zákonů*, the Minister of Foreign Trade, in agreement with the Ministers of Foreign Affairs and of Finance, orders as follows:

Section 1.

(1) Articles imported for the use of heads of diplomatic missions in the Czechoslovak Republic (ambassadors, ministers, ministers-resident, *chargés d'affaires*), for other diplomatic officials assigned to such missions (counselors, secretaries, military, commercial and other *attachés*, and archivists), or for consuls-general, heads of regular consular missions or their Deputies, if they are members of the consular corps and nationals of the sending State, shall be exempt from import duty within the limits specified in section 2, provided that such articles are intended for the personal use of the persons aforesaid or for the use of members of their families living under their roof.

(2) Articles imported for the use of diplomatic and regular consular missions in the Czechoslovak Republic shall be exempt from import duty within the limits specified in section 2, provided that they are intended for the official use of such missions.

(3) Articles imported for the use of agencies of international organizations operating in the Czechoslovak Republic and their members shall be exempt from import duty within the limits specified in section 2, as provided in the preceding paragraphs, if such agencies and persons enjoy privileges and immunities under special treaties.

Section 2. (1) Customs exemptions under section 1 shall be granted for each calendar year, provided that the total amount of duty chargeable for the year in question under the general customs tariffs in respect of the exempted articles shall not exceed the following amounts:

	<i>Czechoslovak crowns</i>
(a) For heads of embassies	50,000
(b) For heads of legations	40,000
(c) For counsellors of embassies and legations, and military and commercial attachés	30,000
(d) For heads of regular consular missions	25,000
(e) For secretaries and attachés of embassies and legations, other special attachés, secretaries and archivists, and deputy heads of regular consular missions	20,000
(f) In respect of articles for the general use of embassies . . .	70,000
(g) In respect of articles for the general use of legations . . .	60,000
(h) In respect of articles for the general use of regular consular missions	30,000

The above amounts shall be reduced by one half in respect of the remainder of 1954.

(2) In the case of newly established diplomatic and regular consular missions, and in the case of persons mentioned in paragraph 1 who have taken up posts in the Czechoslovak Republic during the year, the above amounts shall be reduced proportionately.

(3) The Ministry of Foreign Trade, in agreement with other competent Ministries, shall determine the total customs exemptions applicable to the persons and agencies mentioned in section 1, paragraph 3. The provisions of paragraph 2 shall be applied as appropriate.

(4) Where the specified amount is not exhausted during the calendar year, the balance may not be carried over to the following year.

Section 3. (1) The customs exemption of travel requisites, personal effects and articles belonging to persons mentioned in section 1 and cleared without customs inspection shall be subject to the general customs regulations.

(2) Articles imported for the equipment of newly established diplomatic and regular consular missions, and of newly established agencies of international organizations operating in the Czechoslovak Republic, and enjoying privileges and immunities under special treaties, shall be exempt from customs duty, where such articles are imported within one year from the establishment of such missions or agencies.

(3) Coats-of-arms, emblems, flags, seals, office books and official forms and other printed matter imported for the use of the missions and agencies mentioned in section 1, paragraphs 2 and 3, and official uniforms imported for the members of diplomatic and regular consular missions and their employees, shall be exempt from customs duty.

Section 4. Articles exempt from customs duty under the present Notice shall also be exempt from the substitute turnover tax, pursuant to special regulations.

Section 5. On satisfying itself that a consignment of articles qualifies for customs exemption and is otherwise eligible for clearance into free circulation, the customs office shall clear such consignment. In the case of articles exempted under section 1, the customs office shall enter in the customs exemption register particulars of the articles imported and the amount chargeable in respect thereof as customs duty under the general customs tariff.

Section 6. (1) Customs exemption registers shall be issued by the Central Customs Administration through and on the advice of the Diplomatic Corps Service Bureau.

(2) Only articles exempted under section 1 shall be entered in the customs exemption registers.

Section 7. Where a State fails to observe or limits reciprocity in customs matters, customs exemption in respect of such State may be withdrawn or correspondingly limited. Official statements regarding lack of reciprocity shall be issued by the Ministry of Foreign Trade in agreement with the Ministry of Foreign Affairs.

Section 8. Decisions in matters relating to customs exemption under the present Notice shall be made by the Customs Office in Prague; decisions respecting articles imported for the use of regular consular missions or agencies of international organizations and their members enjoying diplomatic privileges and immunities under special treaties, operating elsewhere than in Prague, shall be made by the customs office situated nearest to their official premises (place of residence).

Section 9. The present Notice shall come into effect on 1 August 1954.

(c) PUBLIC NOTICE No. 1276/47, *Úředny List*, 19 NOVEMBER 1947 (IMPORT PROCEDURE)

Annex to Notice. Exemptions from import restrictions

The following articles may be imported, provided that no payment is involved, without an import licence issued by the Ministry of Foreign Trade and or and without a payment authorization issued by the Czechoslovak National Bank:

. . .

3. Articles imported for the personal use of heads of diplomatic missions of foreign States accredited to the Czechoslovak Republic and of other persons enjoying extritoriality operating within the Czechoslovak customs area, provided that such articles remain in their use.

4. Articles imported by organs and agencies of the United Nations provided that they are exempt from the payment of duty.

5. Articles (official coats-of-arms, flags, emblems, seals, printed matter and office equipment) for the official use of diplomatic and consular missions of foreign States operating in the Czechoslovak customs area.

(d) PUBLIC NOTICE No. 1277/47, *Úředny List*, 19 NOVEMBER 1947 (EXPORT PROCEDURE)

Annex to the Notice. Exemptions from export restrictions

The following articles may be exported without an export licence issued by the Ministry of Foreign Trade:

. . .

4. Articles relating to the official business of foreign diplomatic and consular missions accredited to the Government of the Czechoslovak Republic and dispatched by such missions to the authorities of their countries in the normal course of their official business, and items of personal property

belonging to members of such foreign diplomatic and consular missions or to members of their families, provided that in both cases they are certified as such by the head of the diplomatic or consular mission, or his deputy. Baggage of diplomatic officials accredited to the Government of the Czechoslovak Republic.

5. Official articles or items of personal property exported by organs or agencies of the United Nations.

Denmark ¹

(a) MEMORANDUM ON DIPLOMATIC AND CONSULAR IMMUNITIES IN DENMARK ²

1. The Ministry of Foreign Affairs have the honour to communicate the following information:

2. Article 12 of the Penal Code of June 24, 1939 ³ . . . lays down the position of foreign diplomats and consuls in respect of Danish penal legislation. This article, in connexion with the rules of the Penal Code which lay down the powers vested in the Danish law enforcement authorities, prescribes that the application of these rules is limited by the exemptions recognized by international law. To the extent to which this prescription involves immunity from criminal prosecution, coercive measures authorized in the administration of justice, such as arrest, imprisonment, seizure and search, are likewise out of the question.

3. The legislation does not contain any detailed rules covering police powers in relation to persons enjoying extritoriality. The police are regarded as being justified in taking reasonable measures to attempt to prevent serious breaches of the law if and when the occasion should arise. Likewise, the police are presumed, in cases of disturbance of the public peace, to be entitled to take measures against subordinate diplomatic personnel to the extent necessary for restoring order.

4. Enclosed will be found copy of a Circular Letter, dated January 14, 1955 ⁴ in which the Ministry of Justice notify the prosecuting authorities that the rules of extritoriality do not prevent the prosecution of subordinate embassy or legation personnel (office staff and servants) of Danish nationality. However, no police action or legal action may be taken on embassy or legation premises without the consent of the envoy concerned.

5. The legal position of foreign diplomats and consuls as foreigners is given in the enclosed copies of Act No. 224 of June 7, 1952, ⁵ on the admission of foreigners to this country and the notification and circulars issued by the Ministry of Justice on the basis of this Act. These regulations do not contain any special dispensations for foreign diplomats and consuls.

6. Consequently, foreign diplomats and consuls wishing to enter Denmark must be in possession of passports and visas as required of other foreigners.

¹ The texts of Laws and Regulations reproduced under Denmark have been provided by the Permanent Representative of Denmark to the United Nations. Translation by the Secretariat of the United Nations.

² Received in English from the Ministry of Foreign Affairs of Denmark.

³ See *infra* (b).

⁴ See *infra* (c).

⁵ See *infra* (d).

7. However, the granting of Danish visas to foreign diplomats and consuls is easier than for other foreigners for whom visas are required. Such facilities derive from the authorization issued by the Ministry of Foreign Affairs to all its visa-issuing representatives to issue entry visas for diplomatic or service passports without previous reference to the Ministry of Justice or to the Chief of Police, for nationals of Albania, Bulgaria, Czechoslovakia, Poland, Rumania, the U.S.S.R., Hungary and China, when the purpose of the journey is either to take up a position in a diplomatic or consular mission in Denmark or to travel as a courier. Furthermore, the Ministry of Foreign Affairs, after negotiation with the Ministry of Justice, have authorized certain Danish missions abroad to issue visas for journeys undertaken by diplomats or consular officials, without prior reference to the Ministry of Justice or to the Chief of Police.

8. Such authorizations have been issued to the Danish consulates in Aleppo and Damascus in respect of Syrian nationals and to the Danish representatives in Colombo, Bagdad, Cairo, Djakarta, Bangkok, Beirut, Belgrade, Addis Ababa, Teheran, Tokyo, Rangoon, Warsaw, India, Spain as well as Tel-Aviv, Jaffa and Haifa for nationals of Ceylon, Iraq, Egypt, Indonesia, Thailand, Lebanon, Jugoslavia, Ethiopia, Iran, Japan, Burma, Poland, India, Spain and Israel respectively.

9. An authorization similar to that which has been issued to the Legation in Madrid has been given to all Danish visa-issuing representatives abroad which are likewise authorized to issue transit visas to Polish diplomats and consular officials.

10. Finally, the Embassy in Moscow and the Legation in Prague have been authorized to issue Danish transit visas for Soviet and Czechoslovakian diplomats and consular officials respectively.

11. In the comparatively few cases where an application for visa must be referred to the Ministry of Justice or to the Chief of Police for decision, these cases will be given preferential and prompt attention.

12. Foreign diplomats and consuls who can enter this country without visas but who wish to stay here for more than three months, and diplomats and consuls from countries for which Denmark still requires visas who wish to stay on after the expiry of their entry visas, must apply for permission to stay or have their visas extended, in the same way as other foreigners, though in such cases the permission will always be granted by the Ministry of Foreign Affairs.

13. In addition, the enclosed Notification by the Ministry of Justice, No. 237 of June 25, 1954, Chapter III,¹ lays down requirements for the registration of foreigners as above mentioned. In principle these requirements apply also to diplomats and consuls along with other foreigners, but in practice the rules are not enforced vis-à-vis diplomats and consuls in so far as the provisions of articles 10 and 11 of the above mentioned Notification are concerned.

. . .

14. With respect to municipal taxation legislation the position is as follows:

¹ See *infra* (e).

Personal taxes payable to the municipality:

15. Act No. 28 of February 18, 1937 on personal taxes payable to the municipality, with subsequent amendments, does not contain special rules for the liability of foreign diplomats and consuls to taxation.

16. In practice, decisions on the extent to which foreign diplomats and consuls are liable to municipal taxation are based upon rules which on the whole correspond to those governing taxes payable to the State, cfr. article 3, paragraph 2, of the above mentioned Act with Act No. 149 of April 10, 1922 on income and property taxes payable to the State, article 2, paragraph 3¹.

Real estate taxes payable to the municipality:

17. Act No. 188 of May 20, 1933² on municipal taxation of real estate, with subsequent amendments, does not prescribe special rules for the taxation of real estate belonging to foreign diplomats and consuls. Such property is therefore subject to the ordinary provisions in force in Denmark for the taxation of real estate.

18. Pursuant to article 16, paragraph 2, of the above mentioned Act, the Government is authorized, by agreement with the foreign country concerned, to grant exemption from municipal land tax in respect of property belonging to foreign embassies and legations in Denmark. According to article 19, paragraph 1, no. 1, of the Act, such dispensation also involves exemption from municipal building tax. Up till now, agreements of this nature have not been made with any State, but according to practice premises of foreign missions are exempt from both land tax and municipal taxes.

19. Consular real property belonging to a foreign country does not come under any special rules, either under the law or in practice; such property is therefore taxed according to the ordinary provisions in force in this country for taxation of real estate.

20. Moreover, it should be noted that on a basis of reciprocity, diplomatic and consular missions in Denmark, and their personnel of other than Danish nationality, are exempted from the licensing of radio and television receivers installed in official premises or in private residences.

(b) NOTIFICATION OF THE PENAL CODE OF 24 JUNE 1939

Article 6. (1) Danish criminal jurisdiction shall extend to an offence committed:

- (i) On Danish soil;
- (ii) On a Danish vessel outside the internationally-recognized territory of a State;
- (iii) On a Danish vessel within foreign internationally-recognized territory by a member of the crew or a passenger.

¹ See *infra* (g).

² See *infra* (j).

(2) The Minister of Justice shall decide which offences committed on board a foreign vessel in Danish territory by or against a member of a crew or a passenger shall be prosecuted.

Article 7. Danish criminal jurisdiction shall henceforward extend to the following offences committed outside the territory of the Danish State by a person having Danish nationality or domiciled within that territory:

(1) An offence committed outside the internationally-recognized territory of a State and of a kind punishable by a severer penalty than detention;

(2) An offence committed within such territory and punishable also under the law which is in force there.

Article 8. (1) Danish criminal jurisdiction shall also comprehend an offence committed outside the Danish State, irrespective of the domicile of the offender:

(i) If the offence is prejudicial to the independence, security, constitution or public authorities of the Danish State, or constitutes a breach of official duties or interests protected by law in the Danish State by reason of their special relationship thereto;

(ii) If the offence constitutes a breach of a duty which the offender is required by law to perform abroad, or of a duty respecting a Danish vessel and arising out of his employment;

(iii) If the offence is committed outside the internationally-recognized territory of a State and injures a person having Danish nationality or domicile within the Danish State, and is of a kind punishable by a severer penalty than detention.

(2) The Chief Public Prosecutor shall decide whether charges shall be preferred in any of the cases referred to in paragraph (iii) above.

Article 12. The rules prescribed in articles 6 to 8 shall be subject in their application to the exceptions recognized by international law.

(c) CIRCULAR CONCERNING THE CRIMINAL PROSECUTION OF DIPLOMATIC MISSION PERSONNEL OF DANISH NATIONALITY, DATED 14 JANUARY 1955 (TO THE CHIEF PUBLIC PROSECUTOR, ALL STATE COUNSEL, THE CHIEF OF POLICE IN COPENHAGEN, AND CHIEF CONSTABLES)

Following an investigation by a committee established by the Ministry of Foreign Affairs into the practice hitherto followed in other spheres in regard to the recognition of the right of extritoriality for persons connected with foreign diplomatic missions in Denmark, the Ministry of Foreign Affairs has informed the Ministry of Justice that there will henceforth be nothing to prevent the institution or prosecution of criminal proceedings against subordinate office staff of Danish nationality and Danish domestic staff.

“Subordinate office staff” shall mean clerks, typists and cleaners. “Domestic staff” shall include regularly employed manservants, maidservants and chauffeurs.

Criminal proceedings against such persons shall be conducted in accordance with normal procedure, subject to the following special conditions:

No police or legal action, including service of warrants, summonses or subpoenas, may be taken on the premises of a diplomatic mission save with the consent of the diplomatic representative concerned. Request for such consent shall be made by referring the case to the Ministry of Justice.

The sanctions referred to in chapters 67 to 73 of the Code of Civil Procedure shall not be applied, and proceedings shall not be instituted without

prior reference to the Ministry of Justice. The sanctions enumerated in chapters 68, 69, 71 and 72 may, however, be applied where this is considered necessary to prevent the commission of an offence falling within the sphere of the State Counsel or against any person apprehended in the act of committing such offence. Should this happen, the Ministry of Justice shall be notified forthwith.

(d) ACT No. 224 OF 7 JUNE 1952 CONCERNING THE ADMISSION OF ALIENS TO DENMARK ETC.¹

Article 1. Paragraph 1. It may be determined by Royal Decree whether aliens entering or leaving Denmark shall be required to carry a passport or other travel document.

Paragraph 2. The Minister of Justice may determine whether such passport (travel document) shall be endorsed with a permit (visa) for entry into or departure from Denmark.

Paragraph 3. At the discretion of the Minister of Justice, a special travel document may be issued to an alien who is unable to obtain a passport or other travel document.

(e) NOTICE OF 25 JUNE 1954 CONCERNING PASSPORTS, VISAS, RESIDENCE PERMITS, WORK PERMITS, REGISTRATION OF ALIENS AND SIMILAR MATTERS²

III. REGISTRATION OF ALIENS

Article 7. 1. Hotel-keepers, innkeepers, and the keepers of boarding and lodging houses and similar premises, as well as institutions offering sleeping accommodation free of charge shall notify the police daily, at the prescribed times, of all newly arrived or departed aliens. The notice in respect of each alien shall give the following particulars: (1) full name, (2) date of birth, (3) place of birth, (4) occupation, (5) permanent address, (6) date of arrival, (7) most recent address, (8) date of last entry into the country, (9) nationality, and — with the exception of Finnish, Norwegian and Swedish nationals — (10) data concerning passport or other travel documents. The notice of arrival shall be signed by the alien in person. The accuracy of the particulars given shall be verified from the passport or other travel documents, and there shall be some arrangement for ensuring that the notice is signed by the alien in person.

2. The notice referred to in paragraph 1 shall take the form of a separate card for each alien. The chief officer of police (chief commissioner of police in the case of Copenhagen) may, however, in the case of participants in a group, permit a group list to be submitted instead of individual cards, and such list need be signed only by the leader of the group. The card or list shall next be signed by the keeper of the premises or the person acting on his behalf. Where the police register referred to in paragraph 3 is prescribed, the alien's registry number shall be entered on the card or list.

3. The chief officer of police (chief commissioner of police in the case of Copenhagen) may also, upon application of the Ministry of Justice, require the keeper of the premises as referred to in paragraph 1 to enter alien guests

¹ See above *a*, par. 5-12.

² See above *a*, par. 13.

in a numbered register authorized by the police, which shall at all times be available to the police for inspection. The particulars referred to in paragraph 1, items (1)-(10), shall be entered in the register as soon as an alien arrives, and the date of departure shall be entered as soon as he leaves.

Article 8. The keeper of the premises shall ensure that cards, lists and registers are filled out clearly in ink or indelible pencil. The registers shall be preserved for two years after the last entry has been made.

Article 9. 1. The police shall decide whether the notices referred to in article 7, paragraph 1, are to be fetched by or forwarded to the police. In the latter case the cost of forwarding the notices shall be defrayed by the police.

2. The cost of the cards, lists and registers, which shall be in a form prescribed by the Ministry of Justice, shall be borne by the keeper of the premises. The police shall indicate where the cards, etc. can be purchased.

Article 10. 1. A person not coming under the provisions of article 7 who, for a charge or gratuitously, provides an alien with accommodation or lets him a room or quarters shall obtain from the alien the particulars specified in article 7, paragraph 1, and shall transmit the same to the police as soon as possible and at the latest within twenty-four hours after the alien's arrival.

2. The departure or removal of an alien shall be notified to the police as soon as possible and at the latest within twenty-four hours after such departure or removal.

3. Both the person providing accommodation and the alien shall be responsible for ensuring that the notice referred to in paragraphs 1 and 2 is given.

4. The foregoing provisions shall not apply in cases where a Finnish, Norwegian or Swedish national takes up residence free of charge in a private home and the total period of residence in Denmark does not exceed one month.

Article 11. An alien arriving from or departing for another country shall in addition notify the police thereof as soon as possible and at the latest within twenty-four hours. Notice of removal shall likewise be given within twenty-four hours after the removal has taken place. In the case of removal from one police district to another, notice shall be given to the police authorities of both districts.

¶ *Article 12.* 1. In the giving of notice as prescribed in articles 10 and 11, use shall be made of notice forms of a type specified by the Ministry of Justice. Such forms shall be available free of charge at police offices, police stations and post offices.

2. The forms shall be filled out clearly in ink or indelible pencil.

Article 13. In special cases the police may require an alien to report to the police at specific times.

Article 14. The obligations to notify the registration authorities as prescribed in Act No. 57 of 14 March 1924 concerning Public Registers shall apply jointly with the foregoing provisions.

(f) ORDINANCE OF 1 SEPTEMBER 1951 CONCERNING CIVIL DEFENCE DUTY

. . . .

Article 1. . . . Paragraph 2. The following shall be exempt from [civil defence duty]:

. . . .

(e) Persons who are exempt from military duties and labour service in virtue of a treaty or the rules of international law.

(g) ACT No. 149 OF 10 APRIL 1922 CONCERNING STATE INCOME AND PROPERTY TAX, AS AMENDED BY ACT No. 102 OF 31 MARCH 1933

. . . .

A. INCOME TAX

. . . .

Article 2. The following shall be liable to taxation:

. . . .

3. Any person not domiciled in Denmark who owns immovable property or title rights in Denmark, or has a share in such property, enjoys an income from the same or from trust funds, including assets held under the rules laid down in article 4 of Act No. 563 of 4 October 1919, or carries on or is a partner in any business or activity (cf. article 4);

. . . .

Article 3. The following shall be exempt from taxation:

. . . .

2. The Heads of foreign States, members of foreign reigning houses and the diplomatic representatives and mission personnel of foreign Powers, except in respect of the income referred to in article 2, paragraph 3. The same shall apply to consular officers *de carrière* who are not Danish citizens.

. . . .

B. PROPERTY TAX

. . . .

Article 11. The following shall be exempt from taxation:

1. Persons exempt from income tax under article 3, subject to the same limitations with respect to property as are imposed by article 3, paragraphs 2 and 3, with respect to income;

2. Persons whose property does not exceed 10,000 kroner in value and persons exempt from income tax under article 8, whose property does not exceed 15,000 kroner in value.

(h) ACT No. 352 OF 1922 CONCERNING STATE TAXES ON IMMOVABLE PROPERTY

. . . .

Article 7. The following shall be exempt from assessment for property and land tax:

(a) Diplomatic mission property belonging to the foreign State concerned.

(i) ACT No. 265 OF 27 MAY 1950 CONCERNING TAX ON
INCREASED VALUE OF LAND

Article 17. In addition to property exempt from assessment for land tax, property exempt from State land tax by law or by special dispensation shall also be exempt from the tax on increased value of land. Where only part of a property is exempt from land tax, the said part shall likewise be exempt from the tax on increased value of land.

(j) ACT No. 188 OF 20 MAY 1933 CONCERNING MUNICIPAL
TAXES ON PROPERTY

Exemption from and Remission and Suspension of Land Tax and Property Tax

Article 16. . . . Paragraph 2. The Government may, by agreement with the foreign State concerned, exempt the property of foreign diplomatic missions in Denmark from municipal land tax.

(k) NOTIFICATION OF ACT No. 135 OF 28 APRIL 1931 CONCERNING THE TAX
ON MOTOR VEHICLES ETC., AS AMENDED BY ACT No. 122 OF 13 MARCH
1932

Article 1. . . .

(2) Vehicles belonging to the King, members of the Royal Family or of foreign reigning houses and the diplomatic mission personnel and consular officers *de carrière* of foreign Powers who are not Danish citizens, shall be exempt from this tax.

(l) ACT No. 25 OF 31 JANUARY 1946 CONCERNING
PURCHASE TAX ON MOTOR VEHICLES

Article 6. The following shall be exempt from tax under this Act:

(5) Motor vehicles which belong to Danish State organizations, the fire service, and the diplomatic mission personnel and consular officers *de carrière* of foreign Powers who are not Danish citizens, provided that the said vehicles are used exclusively for the purposes of the organizations concerned.

(m) ACT No. 153 OF 24 MAY 1955. ROAD TRAFFIC ACT.

Article 66. Paragraph 1. All motor vehicle owners shall be required to take out and maintain with an approved third party insurance company an insurance policy in the sum of 60,000 kroner as coverage for the whole or part of any compensation awarded under article 65 against the person responsible for a vehicle involved in an accident. In the case of a foreign motor vehicle, the person using the vehicle in Denmark shall be responsible for such insurance.

Paragraph 3. . . . Members of the diplomatic corps in Denmark and the consular officers *de carrière* of foreign Powers in Denmark shall likewise be exempt from the said insurance obligation.

(n) TARIFF ACT OF 29 MARCH 1924

Article 15. Paragraph 1. The rules governing the conditional exemption from customs duty to which the diplomatic representatives of foreign States in Denmark are normally entitled, shall be laid down by the Crown.

Paragraph 2. The customs authorities may grant exemption from customs duty in respect of consulate equipment etc. to the consulate of a foreign Government in Denmark where the same privilege is accorded to Denmark in the country concerned.

(o) ADMINISTRATIVE REGULATIONS UNDER THE TARIFF ACT OF 29 MARCH 1924

The personal belongings which a diplomatic representative brings with him to Denmark at the time of his first installation shall be admitted free of customs and excise duty, without formalities.

The Customs Department shall be authorized, in virtue of the Royal Decree of 6 December 1916, to grant *exemption from customs duty to the representatives of foreign States accredited to Denmark.*

Exemption from customs duty shall entitle the holder to freedom from duty on goods imported direct from abroad and goods purchased in Denmark direct from a firm which has cleared them through the customs, and to freedom from taxes and excise duties on the following articles, to the extent shown:

Exemption covers:

- | | | |
|--|---|---|
| Wines and spirits | { | (a) Imported goods cleared through the customs by the diplomat or purchased from the firm which cleared them through the customs. |
| | { | (b) Goods manufactured in Denmark and purchased from firms registered in accordance with article 1 of the wines and spirits sales control Act. |
| Alcoholic beverages — wines and spirits (wholesale duty) | { | (a) Imported alcoholic beverages cleared through the customs by the diplomat or purchased from the firm which cleared them through the customs. |
| | { | (b) Spiritous liquors manufactured in Denmark and purchased from firms registered under article 1 of the wines and spirits sales control Act. |

Exemption covers:

Beer	{ Beer brewed in Denmark and purchased direct from the brewery.
Tobacco, manufactured goods, plastics, leathers and furs etc., gold, silver and platinum goods, watches and clocks etc., toys, radio and television sets, gramophones etc., gramophone records, chocolate, sweetmeats, etc.	{ Goods cleared through the customs by the diplomat or purchased from a registered dealer.
Almonds, hazel-nuts etc. (Raw materials duty)	{ Imported goods cleared through the customs by the diplomat or purchased from the firm which cleared them through the customs.
Petrol	{ Imported petrol cleared through the customs by the diplomat or purchased from the firm which cleared the petrol through the customs or, where applicable, from a dealer making a declaration on the importer's behalf.
Perfumes etc., matches, cigar- and cigarette-lighters, playing-cards, mineral waters, paper and pulp, radio valves	{ Imported goods cleared through the customs by the diplomat personally.
Coffee substitutes	{ Goods purchased from registered manufacturers.
Incandescent lamps etc.	{ Goods cleared through the customs by the diplomat or purchased from registered manufacturers.

Motor vehicles registered in the names of diplomatic mission personnel and consular officers *de carrière* of foreign Powers who are not Danish citizens shall be exempt from the purchase tax on motor vehicles

Exemption from customs duty shall as a rule apply only to goods intended for the personal use of the head of the mission; in the case of the diplomatic missions of the following countries, however, exemption from customs duty granted to the head of the mission may likewise be enjoyed by diplomats attached to the mission concerned (Counsellors, Secretaries and Attachés) and their households:

Argentina, Belgium, Brazil, Canada, Chile, China, Colombia, Czechoslovakia, Federal Republic of Germany, Finland, France, Iceland, Indonesia, Italy, Mexico, Netherlands, Norway, Poland, Spain, Sweden, Switzerland, Turkey, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Yugoslavia.

The exemption from customs and excise duty referred to above shall be granted in the following manner:

Where the goods are intended for the head of the mission personally, a declaration shall be produced bearing the personal signature of the head of the mission and stating that the goods are for his personal use.

Where exemption from customs and excise duty is sought in respect of goods intended for diplomats attached to the mission, a declaration shall be made either by the diplomat concerned and endorsed by the head of the mission to the effect that the goods are intended solely for the personal use of the diplomat and his household, or by the head of the mission, stating that the goods are intended for the personal use of the diplomat who is to receive the goods or for his household.

(p) NOTIFICATION CONCERNING THE PROHIBITION OF THE USE OF FOREIGN NATIONAL FLAGS, DATED 10 APRIL 1915

Under the regulations (cf. the Royal Decree of 7 July 1854), issued by the Ministry of Justice Circular of 2 August 1854, it is unlawful in Denmark to fly any flag other than the Dannebrog or to display the flag of any belligerent Power in the open air, or at any inn, tavern or other premises open to the public whether as decoration or in any other manner.

The said prohibition shall not apply to:

(a) The diplomatic representatives, consuls and vice-consuls of foreign States, who shall be entitled to fly the flag of the foreign State concerned at official premises in Denmark and, in the case of diplomatic representatives, at their residences;

(b) Persons who have obtained permission from the Ministry of Justice to fly a foreign national flag.

Any person who contravenes this Notification shall be liable to a penalty under Act No. 200 of 9 September 1914 supplementing the General Penal Code of 10 February 1866.

Any person who contravenes the Notification shall surrender the flag which has been used illegally when required to do so by the police, and the said flag may be held by the authorities pending the conclusion of the proceedings against the offender, which shall be instituted as soon as possible.

This Notification shall enter into force forthwith.

Dominican Republic

NOTE OF 11 NOVEMBER 1955 RECEIVED FROM THE SECRETARY OF STATE FOR EXTERNAL RELATIONS OF THE DOMINICAN REPUBLIC

By this Note, the Secretary of State pointed out that no special legislation exists in the Dominican Republic at present concerning diplomatic and consular immunities, such matters being regulated by multilateral treaties to which the Dominican Republic is a party, as well as by the general principles of public international law.

Ecuador

(a) MEMORANDUM¹ ON ECUADORIAN LAWS AND REGULATIONS REGARDING THE PRIVILEGES AND IMMUNITIES OF FOREIGN DIPLOMATIC AND CONSULAR AGENTS, EMBODIED IN THE LETTER OF 12 JUNE 1956 RECEIVED FROM THE MINISTRY OF FOREIGN AFFAIRS OF ECUADOR

2. . . . I have the honour to inform you that Ecuadorian legislation contains no uniform body of rules concerning the immunities and privileges of foreign diplomatic and consular agents. The provisions in force in this matter are to be found scattered in various codes and enactments:

3. *Article 83 of the Code of Civil Procedure* prescribes the procedure for notifying a foreign Minister Plenipotentiary or other diplomatic agent of a writ formulating a claim against him:

“ *Article 83.* Any summons to a foreign Minister Plenipotentiary or other diplomatic agent, in respect of a claim lying within the jurisdiction of the Supreme Court, shall be served by means of a letter from the Minister of Foreign Affairs to the Minister Plenipotentiary or diplomatic agent concerned transmitting a copy of the court order issued and a statement of the facts antecedent thereto. The note in which the Minister of Foreign Affairs states that he has transmitted the letter in question shall be placed in the file of the case as evidence of the serving of the summons which shall be deemed to have been served on the date on which the copy of the court order relating to the summons was so transmitted.”

4. *Article 247 of the Code of Civil Procedure* states the procedure for recording a deposition as witness by a diplomatic agent:

“ The President of the Republic, the person in charge of the Executive, Ministers and Counsellors of State, members of the Legislature, Court Judges, retired Justices of the Supreme Court and of the High Courts, the Chief Law Officer of the State, the Controller-General, Rectors of Universities, Governors of Provinces, General Officers of the Army, even when not on the active list, District Governors, and Provincial and Cantonal Judges and Diplomatic Agents shall, if called as witnesses, present a written statement on oath concerning the facts upon which they have been requested to supply information.”

5. *Article 3 of the Code of Criminal Procedure* provides that both Ecuadorians and aliens are subject to Ecuadorian criminal jurisdiction in respect of offences committed in the territory of the Ecuadorian Republic, diplomatic agents being excepted in accordance with international law.

“ *Article 3.* The following persons shall be subject to the criminal jurisdiction of Ecuador:

“ 1. Ecuadorians and aliens committing offences in the territory of the Republic;

“ In accordance with international law, the foregoing provision shall not apply to a diplomatic officer resident in Ecuadorian territory nor to a diplomatic officer of a friendly Power in transit through that territory,

¹ The Spanish text of this memorandum has been translated by the Secretariat of the United Nations.

nor to the wife, children, foreign employees or other members of the suite of a diplomatic officer, provided he has officially informed the Ministry of Foreign Affairs of the staff employed at the legation; but it shall apply to a domestic servant engaged in Ecuador and committing an offence outside the residence of the diplomatic officer by whom he is employed; . . .”

6. Under *Article 82 of the Code of Criminal Procedure*, which is analogous to the provisions of Article 247 of the Code of Civil Procedure, diplomatic agents are exempted from the obligation of appearing in person as witnesses in a court of law:

“*Article 82.* Any person called by the Court as a witness shall appear in person to make his statement.

“If the witness does not reside in the locality where the Court sits but is able to travel thereto, he shall be under an obligation to appear before the Court if the interested party, in addition to paying him compensation for any loss involved, as assessed by the judge, pays his travelling expenses to and from the said locality; such payment shall not vitiate the testimony.

“This provision shall not apply to a person who must *submit a written statement* or who, because of physical disability, makes his statement in his own home . . .”

7. *Articles 126 and 127 of the Penal Code* prescribe the penalties applicable in respect of attempts against the life, immunity or personal freedom of a foreign Head of State or of a Representative of a foreign State accredited as Head of the diplomatic mission of his country to Ecuador:

“*Article 126.* Any person who makes an attempt in the territory of Ecuador against the life, immunity or personal freedom of a foreign Head of State shall be punishable, in the case of an attempt against the life of the said Head of State, by a penalty of major imprisonment for a term of not less than four or more than eight years. If the act results in the death of the foreign Head of State, the convicted person shall be sentenced to special major imprisonment.

“Any person who commits an act in the territory of Ecuador offending the dignity or the prestige of a foreign Head of State who is visiting the country shall be punishable by a penalty of imprisonment for a term of not less than six months or more than two years.”

“*Article 127.* The provisions of the previous article shall apply to the acts specified therein if such acts are committed against the Representative of a foreign State accredited to Ecuador in the capacity of Head of Diplomatic Mission.”

8. *Article 354 of the Code of Criminal Procedure* makes it incumbent upon public prosecutors to prosecute offences committed through the Press against foreign diplomatic agents:

“Public prosecutors shall be under a specific obligation to prosecute such offences — offences committed through the Press — whenever the writings concerned are immoral, subversive, or contain a libel or an insult against the authorities in connexion with the performance of their duties, or against a foreign diplomatic officer.”

9. *Article 14 of the Statute on the Organization of the Judiciary* provides that the Supreme Court of Justice shall have special jurisdiction, both in the first instance and on appeal, over civil and commercial suits in which a

foreign Minister Plenipotentiary or other Diplomatic Agent is concerned either as plaintiff or defendant, in those cases permitted by international law or specified by treaty. This jurisdiction extends to preliminary proceedings:

“ *Article 14.* The jurisdiction of the Supreme Court shall include:

. . .

“ (3) Civil and commercial claims, both in the first instance and on appeal, in which a foreign Minister Plenipotentiary or other diplomatic agent is concerned either as plaintiff or defendant, in those cases permitted by international law or specified by treaty. The Supreme Court shall have jurisdiction in respect of preliminary proceedings.”

. . .

13. A number of provisions on the subject also occur in certain statutes of secondary importance: *Article 19 of the Aliens Act* provides that the passports of diplomatic or consular agents, and of members of their family and suite under their protection shall be viséd free of charge, a diplomatic or courtesy visa being issued as appropriate:

“ *Diplomatic and courtesy visas*

“ *Article 19.* The passports of diplomatic or consular agents and of members of their family or suite under their protection shall be viséd free of charge, a diplomatic or courtesy visa, being issued as appropriate. Such visas may also be granted in exceptional cases to eminent persons of recognized high political or international standing wishing to visit Ecuador; to scientists recommended by foreign Governments and cultural institutions; to technical advisers under contract with a private association engaged in activities of public importance; to persons engaged in a professional capacity by the Government or by a public institute of Ecuador, etc.”

14. *The Customs Act* provides that articles intended for the use of members of the Diplomatic Service accredited to the Republic of Ecuador shall be exempt from import duties and customs surcharges or fines up to the amount specified in the Customs Tariff regulations:

“ *Article 13.* The following articles shall be exempted from payment of import duties:

. . .

“ 5. Objects intended for the private use of members of the Diplomatic Corps, technical assistance missions of the United Nations or its specialized agencies, Point Four Missions, and members of the Consular Corps, subject to international reciprocity.”

15. *Article 8 of the Income Taxes Act* exempts from taxation the income accruing from personal services to honorary staff, as well as the emoluments paid by foreign Governments to their diplomats, consuls and their suite, provided that the persons concerned are not Ecuadorians.

16. There are also certain regulations relating to the subject, such as the regulations in *Chapter XXXVII of the General Post Office Regulations*, which exempts from postal charges all official correspondence addressed by foreign diplomatic Ministers to the Ecuadorian Government and to Ecuadorian

authorities and institutions, as well as correspondence addressed to the Governments of foreign countries through the diplomatic bag in accordance with international conventions.

17. With regard to the arrest of an offender in the residence of a diplomatic officer, *Article 178 of the Code of Criminal Procedure* specifies that the surrender of the offender shall be requested through the Minister of Foreign Affairs. If the diplomatic officer refuses and no satisfactory explanation is given by his Government, local immunity shall be considered to have been abused and shall therefore be deemed to have been waived:

“ *Article 178.*

. . .

“ In order to remove an offender from the house of a diplomatic officer, the judge shall transmit a copy of the investigation proceedings to the Ministry of Foreign Affairs which shall request the surrender of the offender.

. . .

“ If the diplomatic officer concerned refuses to surrender the offender, and if no satisfactory explanation is offered by his Government, such abuse of local immunity shall be deemed to constitute a waiver of local immunity and the Government may, as the case requires, authorize a search for the purpose of arresting the offender who has not been surrendered, or any other offender who may have subsequently taken refuge in the house of the diplomatic officer concerned.

. . .

Egypte

a) NOTE¹ RELATIVE AUX LOIS ET RÈGLEMENTS EN VIGUEUR EN ÉGYPTE CONCERNANT LES PRIVILÈGES ET IMMUNITÉS DIPLOMATIQUES ET CONSULAIRES, ANNEXÉE A LA LETTRE DU 29 JANVIER 1957 REÇUE DE LA MISSION PERMANENTE DE L'ÉGYPTE AUPRÈS DE L'ORGANISATION DES NATIONS UNIES

I. — DISPOSITIONS LÉGISLATIVES ET RÉGLEMENTAIRES RELATIVES A L'INVIOLABILITÉ DE L'AGENT DIPLOMATIQUE PAR RAPPORT A SA PERSONNE ET A LA PROTECTION DE SON INDÉPENDANCE

a) *L'article 192 du Code pénal* punit quiconque commet un outrage contre le représentant d'un État étranger. Cet article est ainsi conçu: « Sera puni d'un emprisonnement ne dépassant pas un an et d'une amende de 20 à 100 livres égyptiennes ou de l'une de ces deux peines seulement, l'outrage commis, par l'un des mêmes moyens, envers le représentant accrédité d'un État étranger en Égypte au sujet de faits relatifs à l'exercice de ses fonctions. »

b) *L'article 19 du décret-loi n° 74 de 1952 modifié par la loi n° 88 de 1954* prévoit que les dispositions de la loi sur les passeports ne s'appliquent pas aux agents diplomatiques. Cette loi énonce dans son *article 4*: « Dans les trois jours de son entrée en territoire égyptien, l'étranger est tenu de se présenter personnellement au poste de police de l'endroit où il se trouve, afin d'y faire une déclaration au sujet de son état civil. » Elle dispose égale-

¹ Le texte de cette note a été fourni en français.

ment dans son *article 5*: « Avant de changer de domicile, l'étranger doit aviser le poste de police de son nouveau domicile, etc. » Elle prévoit aussi dans son *article 9*: « Tout étranger doit être muni d'une autorisation de séjour. Il devra avoir quitté le territoire égyptien à l'expiration de la période de son séjour, à moins d'avoir obtenu, au préalable, du Ministère de l'intérieur, l'autorisation de prolonger son séjour. » Puis, l'*article 19* de la loi précitée déclare: « Les dispositions de la présente loi ne sont pas applicables: 1) Aux porteurs de passeports diplomatiques. »

c) L'*article 5 (5)* de la loi de 1954 autorise les membres du corps diplomatique à posséder ou détenir des armes ou des munitions sans permis. L'*article 1^{er}* de ladite loi est ainsi conçu: « Nul ne saurait, sans un permis du Ministère de l'intérieur ou de son délégué, posséder ou détenir des armes blanches indiquées au tableau n° 1 annexé à la présente loi ... » Puis l'*article 5* de la même loi déclare: « Sont dispensés de l'obtention du permis visé à l'alinéa 1^{er} de l'article 1^{er}: ... 5) les membres du corps diplomatique et consulaire étranger, à charge de réciprocité; et ce à condition de présenter au poste de police dont leur domicile relève une déclaration écrite du nombre des armes qu'ils détiennent, de leur description, et de toute modification qui y surviendrait dans le délai d'un mois à partir de leur acquisition ou dessaisissement, contre récépissé. »

II. — DISPOSITIONS LÉGISLATIVES ET RÉGLEMENTAIRES CONCERNANT L'EXEMPTION D'IMPÔTS ET TAXES

a) L'*article 1^{er} de la loi n° 191 de 1953 relative aux exemptions des droits de douane* dispose: « Sont exemptés de la vérification et du paiement des droits d'entrée et de sortie, du droit *ad valorem*, du droit *ad valorem* additionnel, des droits de consommation, du droit d'accise sur le benzine, des droits de quai et des taxes municipales: a) les effets personnels et les objets d'usage personnel importés, appartenant aux ambassadeurs, ministres plénipotentiaires, chargés d'affaires, conseillers, secrétaires, consuls, vice-consuls de carrière et attachés, inscrits sur les listes que le Ministre des affaires étrangères publiera, ainsi que ceux appartenant à leurs épouses et enfants mineurs; b) les objets importés par les ambassades, légations, consulats, et consistant en meubles meublants et autres objets destinés à un usage officiel, à l'exception des produits alimentaires, boissons alcooliques et tabacs. »

L'*article 2* de cette loi dispose: « Les exemptions mentionnées dans l'article 1^{er} de la présente loi ne seront accordées qu'à charge de réciprocité, après approbation par le chef de la mission diplomatique. Le connaissance doit être rédigé au nom de celui qui a le droit de bénéficier de ces exemptions. S'il est rédigé au nom d'une autre personne ou s'il est au porteur, l'exemption ne sera accordée que sur autorisation du Ministre des finances et de l'économie. »

b) L'*article 4 de la loi n° 99 de 1949 portant exemption de l'impôt général sur le revenu* est ainsi conçu: « Sont exonérés de l'impôt: ... 2) les ambassadeurs, ministres plénipotentiaires et autres représentants diplomatiques étrangers ainsi que les consuls et agents consulaires de nationalité étrangère, sous réserve de réciprocité et dans les limites de cette réciprocité. »

c) L'*article 71 de la loi n° 449 de 1955, relatif à l'exemption des impôts et droits sur les automobiles* dispose: « Sont exemptés des impôts et droits établis par la présente loi: ... c) ... les automobiles appartenant aux membres du corps diplomatique et consulaire étranger, à charge de réciprocité ... et dans les

limites de cette réciprocité ...; d) ... les agents diplomatiques et consulaires sont exemptés des droits relatifs aux permis de conduire, à charge de réciprocité.»

d) *L'arrêté du Ministre de l'orientation nationale du 28 mars 1954 approuvant la note du Conseil supérieur de la radiodiffusion* prévoit que les agents diplomatiques et consulaires étrangers sont exonérés des droits établis par la loi sur la radiodiffusion, à charge de réciprocité. Cet arrêté est maintenu en vigueur en vertu de l'ancienne loi n° 471 de 1953 sur la radiodiffusion, et ce dans les limites de la disposition de l'article 4 de la nouvelle loi sur la radiodiffusion n° 266 de 1955. Ledit article est ainsi conçu: « Le Conseil de la radiodiffusion peut exonérer les autorités et organismes qu'il jugera opportun d'exonérer, pour des considérations scientifiques, littéraires ou de courtoisie internationale, du paiement des droits établis par l'article 2 de la présente loi.»

e) *La décision du Conseil des ministres du 31 décembre 1931 approuvant celle du Conseil d'administration des chemins de fer du 14 décembre 1931* accorde des cartes de circulation gratuites aux agents diplomatiques étrangers. Elle est ainsi conçue: « Des cartes de circulation gratuites en 1^{re} classe sur tout le réseau des chemins de fer sont octroyées aux chefs des missions diplomatiques étrangères en Égypte dont les gouvernements ont admis la réciprocité.»

f) *L'article 16 de l'arrêté du Ministre de l'intérieur du 20 mai 1953 en exécution de la loi n° 74 de 1952, modifié par l'arrêté du Ministre de l'intérieur du 7 mars 1954*, dispose: « Les personnes suivantes, leurs épouses et leurs enfants mineurs sont exonérés des taxes relatives aux cartes de séjour. Il pourra leur être octroyé un seul visa de retour par an, sans frais: ... f) les fonctionnaires étrangers du corps diplomatique et consulaire étranger ne faisant pas partie des agents diplomatiques; g) les pères, frères et enfants non mineurs des membres du corps diplomatique et consulaire étranger en Égypte ainsi que les personnes qui en dépendent à titre de gouvernantes ou de domestiques, à condition de réciprocité.»

g) *L'article 8 de la loi n° 92 de 1944 relative aux droits de transcription et de conservation* est ainsi conçu: «... Sont affranchis des droits prévus par la présente loi: ... 5)¹ tout acte quelconque de transfert de la propriété d'un immeuble en Égypte, au profit d'un gouvernement étranger, en vue d'y installer ses agences diplomatiques ou consulaires, mais à charge de réciprocité.» Les droits visés par cet article sont ceux prévus par les articles 1 et 2 de la loi précitée n° 92 de 1944. *L'article 1^{er}* énonce: « La transcription des contrats, déclarations, actes et jugements prévus par le tableau annexé à la présente loi sera soumise à un droit proportionnel dans les conditions spécifiées en regard de la matière.» *L'article 2* édicte: « Indépendamment du droit proportionnel établi à l'article 1^{er}, un droit de conservation sera perçu aux taux suivants: ...»

h) *L'article 2 (5) du décret du 30 mars 1884 sur l'impôt de la propriété bâtie* dispose: « Sont exemptés de l'impôt: ... 5) les hôtels consulaires appartenant à des puissances étrangères. Cette disposition a été complétée par la loi n° 56 de 1954 dont l'article 21 édicte: « Sont exemptés de l'impôt: ... e) les hôtels des ambassades, légations et consulats appartenant à des nations étrangères, sous condition de réciprocité quant aux hôtels se trouvant sur leur territoire et appartenant à l'État.»

¹ L'alinéa 5 de cet article a été ajouté par la loi n° 235 de 1953.

i) L'article 3 de la section V de la loi n° 224 de 1951 établissant un droit de timbre. L'article 1^{er} de cette loi dispose: « Un droit de timbre est établi sur les actes, écrits, papiers, imprimés, registres et autres énumérés dans les tableaux annexés à la présente loi. Puis, dans la section V desdits tableaux, sous la rubrique: « Les paiements effectués par l'État », l'article 1^{er} de ladite section énonce: « Il sera perçu un droit de timbre sur tous paiements effectués par l'État ..., etc. »; et l'article 2 dispose: « Pour tout ce qui concerne les achats, travaux, soumissions, fournitures et locations, il sera perçu, en sus du droit prévu au paragraphe précédent, un droit additionnel équivalent au double du droit ordinaire »; puis, l'article 3 édicte: « Seront exonérés du droit de timbre mentionné aux deux paragraphes précédents les paiements effectués par l'État ou les institutions publiques, dans les cas suivants: ... d) les paiements à une institution internationale ou à un gouvernement étranger, à condition d'un traitement réciproque. »

j) Tels sont les textes législatifs égyptiens relatifs aux immunités diplomatiques et consulaires que nous sommes parvenus à réunir. Il existe à leur côté une coutume constante qui atteint le degré de la loi, et impliquant d'autres immunités au profit des agents diplomatiques. Ces immunités sont: 1) ils ne sont pas soumis, ainsi que les membres de leur famille et les personnes qui en dépendent, aux juridictions de l'État accréditaire, conformément aux principes admis en droit international, et ce dans les actions pénales, d'une manière absolue, et dans les actions civiles ne comportant pas un acte de commerce; le tout à moins d'une autorisation de l'État accréditant; 2) les agents diplomatiques, les membres de leur famille et les personnes qui en dépendent, ne peuvent être arrêtés ni détenus préventivement, à moins d'une autorisation de l'État qu'ils représentent.

k) De même, d'après une coutume constante en Égypte, les consuls ne sont pas soumis aux juridictions de l'État accréditaire pour tout ce qui concerne les actes qu'ils accomplissent dans l'exercice ou à l'occasion de l'exercice de leurs fonctions, et ce à moins d'une autorisation de l'État qu'ils représentent.

l) Cet ensemble de principes consacrés par une coutume constante ou prévus par des textes législatifs, réglementent les immunités dont jouissent les membres du corps diplomatique et consulaire étranger en Égypte.

El Salvador

(a) MEMORANDUM¹ REGARDING PRIVILEGES AND EXEMPTIONS OF DIPLOMATIC AND CONSULAR AGENTS ACCREDITED IN EL SALVADOR, ANNEXED TO THE NOTE OF 25 SEPTEMBER 1956 RECEIVED FROM THE MINISTER FOR EXTERNAL RELATIONS OF EL SALVADOR

I. PRIVILEGES AND EXEMPTIONS OF DIPLOMATIC AGENTS ACCREDITED IN EL SALVADOR

1. Exemption from registration fees and charges for leaden seals and number plates on vehicles of the Diplomatic Corps (motor-cars, station wagons, motor-cycles, bicycles etc.).

¹ The text of this Memorandum which was received in Spanish has been translated by the Secretariat of the United Nations.

In his Note of 25 September 1956, the Minister for External Relations of El Salvador stated that the privileges and immunities accorded to the diplomatic and consular corps accredited in El Salvador have been regulated by the

2. Exemption from income tax in respect of salaries and emoluments received by diplomatic agents in connexion with their posts, and also from street maintenance tax and the obligation to obtain an ordinary identity card.

3. Exemption from payment of any dues and charges for storage of their effects and belongings in the customs.

4. Exemption from inspection of their luggage, effects and belongings.

5. Complete postal, telephone and telegraphic franchise (domestic). Postal franchise in respect of ordinary foreign mail and exemption from customs duties, there being no restriction on the importation of goods by diplomatic agents (the exemption from customs duties also applies to import duties on motor-cars owned by accredited diplomatic agents; such vehicles may be sold in the Republic at any time without payment of any taxes or duties). Petrol: 59 colons per gallon (special rate for diplomatic agents).

6. As a special courtesy, members of missions who have diplomatic status and their wives may drive motor vehicles, without having to obtain a driving permit; if they are in possession of a diplomatic identity card endorsed to that effect. They therefore do not pay fees for driving permits.

7. The identity card issued to diplomatic agents entitles them to freedom of movement, to carry arms, etc., and they are not required to obtain special licences for such purposes.

II. EXEMPTIONS OF CONSULAR AGENTS IN EL SALVADOR

8. Free entry of goods for the use of the Consulate and for personal use, provided there is strict reciprocity (the exemption from customs duties also applies to import duties on motor-cars owned by accredited consuls *de carrière*; such vehicles may be sold in the Republic at any time without payment of any taxes or duties).

9. Exemption from registration fees and charges for leaden seals and number plates on vehicles of the Consular Corps.

10. Exemption from income tax in respect of salaries and emoluments received by Consular agents in connexion with their posts, and also from street maintenance tax and the obligation to obtain an ordinary identity card.

11. Postal, telephone and telegraphic franchise (domestic), if there is reciprocity.

12. The identity card issued to consular agents entitles them to freedom of movement, to carry arms, etc., and they are not required to obtain special licences for such purposes.

(continued)

stipulations of the Conventions regarding Diplomatic and Consular Agents, adopted by the Sixth International American Conference, held at Havana on 20 February 1928, which Conventions have been ratified by the Government of El Salvador. (See *infra*, Second Part, I, treaties Nos. 2, 3.) He further stated that there exist various laws and regulations concerning the application of the above-mentioned Conventions, as well as several laws based upon international practice and on the principle of reciprocity.

Finland

a) MÉMOIRE ¹ RELATIF AUX PRIVILÈGES DIPLOMATIQUES EN FINLANDE, ANNEXÉ A LA NOTE DU 3 NOVEMBRE 1955 REÇUE DE L'OBSERVATEUR PERMANENT DE LA FINLANDE AUPRÈS DE L'ORGANISATION DES NATIONS UNIES

I. — INVIOIABILITÉ ET IMMUNITÉ DE JURIDICTION

La législation finlandaise ne contient pas de lois concernant l'invioiabilité et l'immunité juridique des membres des légations et des consulats des puissances étrangères. Dans la pratique, on a cependant observé les principes généraux du droit, la courtoisie internationale et les usages généralement acceptés.

Les chefs de mission, les membres diplomatiques des légations ainsi que les membres de leurs familles jouissent en Finlande de l'exterritorialité dans le sens donné par le droit international à ce terme. Ces personnes sont soustraites à toute sanction légale, et les crimes, délits ou contraventions qu'elles auraient commis peuvent uniquement être signalés par la voie diplomatique aux chefs des légations ou, s'il y a lieu, aux gouvernements respectifs. Exemptés de toute juridiction civile et criminelle, elles ne sont non plus obligées de comparaître comme témoins devant les tribunaux.

Les personnes de nationalités étrangères au service des chefs de mission bénéficient également de l'exterritorialité, à moins que les chefs de mission ne jugent opportun, le cas échéant, de leur retirer cet avantage.

Le personnel des chancelleries et les domestiques de ce personnel, de nationalité étrangère ou non, sont soumis à la juridiction du pays.

On accorde aux consuls de carrière et aux hauts fonctionnaires consulaires le bénéfice de l'immunité de juridiction pour des délits de peu de gravité quoiqu'ils ne jouissent pas des privilèges et de l'immunité diplomatique en général.

Les personnes exterritoriales sont obligées, conformément aux principes du droit international, d'observer les ordonnances locales et les arrêts de la police. En particulier, elles doivent se soumettre aux mesures prises par les autorités pour le maintien de l'ordre et de la sécurité des citoyens, pour le règlement de la circulation des véhicules à moteur, pour la salubrité des villes, etc.

Les maisons ou les appartements des légations jouissent de la franchise de l'hôtel.

II. — IMMUNITÉS FISCALES ²

Selon la législation finlandaise les membres des légations étrangères et des consulats gérés par un consul de carrière sont exemptés des impôts directs. Cela ne concerne cependant pas les personnes de nationalité finlandaise et celles qui, en sus de leurs fonctions diplomatiques ou consulaires, exercent un métier, une profession ou une autre occupation lucrative et payent des impôts de ce chef.

A. — *Impôts sur le revenu et le capital*

Revenu. La loi du 5 décembre 1924, article 4, prescrit: Les personnes appartenant à une légation ou à un consulat d'une puissance étrangère ainsi que

¹ Le texte de ce mémoire a été fourni en français.

² Voir également plus bas b à g.

leur personnel domestique de nationalité étrangère sont imposés exclusivement pour le revenu de leurs immeubles situés en Finlande ou d'un métier exercé dans ce pays ainsi que pour les appointements et les pensions de provenance finlandaise. Si lesdites personnes sont de nationalité finlandaise, elles sont astreintes au paiement de l'impôt sur le revenu, sauf pour les revenus qu'elles ont eus au service de la puissance étrangère.

Capital. Article 5. — Les membres étrangers des légations et des consulats sont soumis à cet impôt uniquement pour leur propriété immobilière dans ce pays et pour les capitaux placés dans leurs entreprises productives en Finlande.

Les immeubles appartenant aux puissances étrangères et affectés uniquement à l'usage des missions diplomatiques sont, en vertu de l'article 3 de l'arrêté du Conseil d'État du 15 janvier 1925, sous réserve de réciprocité, exonérés de l'impôt sur le revenu et le capital.

Les citoyens finlandais appartenant soit aux légations ou aux consulats des puissances étrangères soit à leur personnel domestique payent cet impôt comme les autres citoyens finlandais.

C. — Impôt ecclésiastique

Les personnes appartenant à une légation ou à un consulat d'une puissance étrangère sont obligées de payer l'impôt ecclésiastique seulement pour leurs immeubles en Finlande.

D. — Impôt sur l'intérêt

L'arrêté du Conseil d'État du 14 décembre 1923, article 1^{er}, prescrit: Les légations des puissances étrangères à Helsinki, leurs personnels et les consuls de carrière sont exonérés de la taxe laquelle, en vertu de la loi du 30 décembre 1921, est payée par les étrangers sur les intérêts de leurs dépôts en banque.

E. — Impôt sur les chiens

Aucune exonération de l'impôt sur les chiens appartenant aux membres du corps diplomatique ou aux consuls de carrière n'est prévue dans la législation en vigueur. Par courtoisie, on n'a toutefois pas exigé le paiement de cet impôt jusqu'à présent.

III. — EXONÉRATION DE CERTAINS DROITS ET TAXES

1) *Taxe sur les postes de radio.* — Sous réserve de réciprocité le Ministère des communications et des travaux publics peut accorder aux membres des légations des licences d'exemption de taxe pour leurs appareils récepteurs de radio.

2) *Adresse télégraphique.* — Les légations des puissances étrangères peuvent, sous réserve de réciprocité, faire enregistrer gratuitement leurs adresses télégraphiques.

3) Les membres du corps diplomatique ont la possibilité d'acheter au Monopole d'État des vins et des spiritueux à un prix réduit, mais non en franchise de douane et de taxes. La franchise de douane ne leur est accordée que pour les boissons se trouvant encore aux entrepôts de la douane.

4) Les chefs de mission accrédités en Finlande bénéficient, sous réserve de réciprocité, des billets gratuits sur le réseau des chemins de fer de l'État.

5) Les cartes diplomatiques délivrées aux membres du corps diplomatique donnent *libre accès* aux quais des gares du chemin de fer, aux aérodromes et aux embarcadères au départ ou à l'arrivée des bateaux.

IV. — IMMUNITÉS DOUANIÈRES

(Voir plus bas *j* à *l*)

V. — AUTRE PRÉROGATIVE ¹

Assurance des ouvriers. — En vertu de la loi du 12 avril 1935 tout employeur est obligé d'assurer ses ouvriers et domestiques contre les accidents du travail. Les membres de nationalité étrangère des légations ou des consulats en Finlande ont cependant jusqu'à présent été exemptés de cette obligation.

(*b*) INCOME AND PROPERTY TAX ACT NO. 888 OF 19 NOVEMBER 1943 ²

Article 9. A person, other than a Finnish citizen, who is attached to the embassy or to a fully accredited consulate of a foreign State in Finland or is a member of the family or a servant of a person so attached shall not be required to pay the tax except in so far as it is chargeable on income from immovable property in Finland or from an occupation carried on by him in Finland, on wages or pensions received by him from a source in Finland other than an occupation as aforesaid, and on his immovable property in Finland or assets invested in an occupation carried on by him in Finland.

(*c*) ACT NO. 276 OF 21 DECEMBER 1923, TO AMEND THE REGULATIONS OF 25 JUNE 1898 RESPECTING THE LOCAL ADMINISTRATION OF RURAL COMMUNES

Article 78, fifth paragraph

. . .

A person, other than a Finnish citizen, who is attached to the embassy or to a consulate of a foreign State in Finland or is a servant of a person so attached shall not be required to pay the tax except in so far as it is chargeable on income derived by him from immovable property in Finland or from an occupation carried on by him in Finland and on wages or pensions received by him from a source in Finland. Where persons attached to the embassy or to a consulate of Finland in a foreign State or servants of such persons are required in that State to pay local tax in respect of income other than income as herein referred to, persons attached to the embassy or to a consulate of that State in Finland and servants of such persons may, on a basis of reciprocity, be required to pay tax in Finland in respect of similar income.

The Government may, on a basis of reciprocity, authorize exceptions to the obligation to pay tax on income received from a foreign source and to the tax obligation of a foreign national or a foreign State, undertaking, institution or foundation.

¹ Voir également plus bas *h* à *i*.

² The Finnish texts of enactments (*b*) to (*l*) have been provided by the Permanent Observer of Finland to the United Nations. Translation by the Secretariat of the United Nations.

(d) ACT NO. 276 OF 21 DECEMBER 1923, TO AMEND THE REGULATIONS OF 8 DECEMBER 1873 RESPECTING THE LOCAL ADMINISTRATION OF TOWNS

Article 53, fifth paragraph

. . .

A person, other than a Finnish citizen, who is attached to the embassy or to a consulate of a foreign State in Finland or is a servant of a person so attached shall not be required to pay the tax except in so far as it is chargeable on income derived by him from immovable property in Finland or from an occupation carried on by him in Finland and on wages or pensions received by him from a source in Finland. Where persons attached to the embassy or to a consulate of Finland in a foreign State or servants of such persons are required in that State to pay local tax in respect of income other than income as herein referred to, persons attached to the embassy or a consulate of that State in Finland and servants of such persons may, on a basis of reciprocity, be required to pay tax in Finland in respect of similar income.

The Government may, on a basis of reciprocity, authorize exceptions to the obligation to pay tax on income received from a foreign source and to the tax obligation of a foreign national or a foreign State, undertaking, institution or foundation.

(e) INHERITANCE AND GIFT TAX ACT NO. 378 OF 12 JULY 1940

Article 4. Property passing by inheritance or will shall be subject to the inheritance tax if it consists of:

- (1) Movable or immovable property in Finland;
- (2) Movable property situated elsewhere and belonging to the estate of a deceased person resident in Finland.

Inheritance tax paid in another country in respect of property as referred to in the first paragraph (2) shall be deducted from the inheritance tax payable in respect of the same property in Finland.

A person shall be regarded as resident in Finland if he or his family has his (its) actual place of residence in Finland or if he is continuously resident in Finland for more than one month, a temporary absence being disregarded for the purposes of continuous residence.

Where a deceased person other than a Finnish citizen was attached to the embassy or to a fully accredited consulate of a foreign State in Finland or was a member of the family or a servant of a person so attached, the provisions of this article shall not apply to the estate of such deceased person except as it affects immovable property and such movable property as is necessary for its utilization.

. . .

Article 18, fourth paragraph

. . .

The provisions of article 4, fourth paragraph, in respect of inheritance tax shall apply as appropriate in determining the gift tax applicable to property constituting a gift made by a person, other than a Finnish citizen, who is attached to the embassy or to a fully accredited consulate of a foreign

State in Finland or is a member of the family or a servant of a person so attached.

(f) WITHHOLDING-TAX ACT NO. 696 OF 4 OCTOBER 1946

Article 5. The embassy of a foreign State in Finland, a consulate of such a State in the charge of a fully accredited consul, or a foreign agency having the same status as such an embassy or consulate shall not be required to effect withholdings as provided in article 3.

(g) MOTOR VEHICLE TAX ACT NO. 982 OF 30 DECEMBER 1947

Article 2. The tax shall not be levied:

(6) Subject to reciprocity, on vehicles belonging to the embassy or to a fully accredited consulate of a foreign State in Finland or to persons other than Finnish citizens employed by such embassies or consulates.

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(h) MOTOR VEHICLE LIABILITY ACT NO. 408 OF 10 DECEMBER 1937

Article 10, second paragraph

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The obligation to carry insurance shall not apply to the President of the Republic, the State, the head of a foreign State, a member of the reigning dynasty of a foreign State or, subject to reciprocity, a person other than a Finnish citizen, attached to the embassy or to a consulate of a foreign State in Finland.

• • •

(i) NATIONAL PENSIONS ACT NO. 248 OF 31 MAY 1937

Article 1, third paragraph. Persons attached to the embassy or to a consulate of a foreign State and the servants of such persons shall likewise not be insured under this Act if they are foreign nationals.

(j) CUSTOMS ACT NO. 271 OF 8 SEPTEMBER 1939

Article 92. The following customs privileges shall be granted to the embassy and consulates of a foreign State in Finland on condition that corresponding privileges are granted to the embassy and consulates of Finland in the foreign State:

(1) Coats of arms, flags, office supplies and equipment and other articles intended for official use that are received by an embassy or consulate from the State which it represents may be imported free of duty;

(2) Furniture, household utensils and other necessities brought into Finland by the head of the embassy for his own or his family's personal use may likewise be imported free of duty;

(3) Any package, bag, bundle, suitcase, chest or the like addressed to the head of the embassy or to the embassy itself and carried by foreign diplomatic courier may be brought into the customs territory free of duty and inspection if duly sealed with an official seal and entered in the courier's list;

(4) Packages brought by diplomatic courier to a consulate of a foreign State in Finland in the charge of a fully accredited consul shall be exempt from customs inspection and free of duty if duly sealed with an official seal and noted in the courier's list as containing documents or letters.

The Ministry of Finance may, on a basis of reciprocity, grant to the representatives of foreign States and their entourage and to diplomatic couriers privileges more extensive than those provided for in this article.

The Ministry of Finance may also, in case of need, make provision for the customs clearance of packages sent from Finland by the representatives of foreign States.

(k) CUSTOMS REGULATIONS NO. 275 OF 8 SEPTEMBER 1939

Article 114. Customs privileges of foreign embassies and consulates

1. The articles and necessities referred to in article 92, first paragraph (1) and (2) of the Customs Act and such articles and necessities in respect of which, as provided in the second paragraph of that article, customs exemption is granted by the Ministry of Finance on a basis of reciprocity to representatives of foreign States and their entourage shall, unless there is a specific reason for not doing so, be delivered without inspection to the person authorized to receive them if that person submits a request to that effect and uses for that purpose the notification form approved by the Ministry of Finance, the said form to be prepared in three copies, one of which shall bear the stamp of the Ministry of Foreign Affairs. The said notification forms duly completed shall be used in lieu of a customs declaration.

2. The head of a foreign embassy shall, on a basis of reciprocity, be exempt from the payment of customs duty on goods which he withdraws from a customs warehouse for his own or his family's personal use.

3. Where, under article 92, second paragraph, of the Customs Act the representatives of a foreign State have been granted more extensive customs privileges by the Ministry of Finance, the said representatives shall also be granted the customs exemption provided for in paragraph 2 of the present article.

(l) ALCOHOLIC BEVERAGES ACT NO. 45 OF 9 FEBRUARY 1932

Article 3, first paragraph. Subject to the restrictions prescribed by the Cabinet, alcoholic beverages may, apart from the Alcoholic Beverages Corporation, be brought into the country by:

(1) the representatives of foreign States who are entitled to bring goods into the country free of duty.

France¹

a) NOTE RELATIVE AUX PRIVILÈGES ET IMMUNITÉS ACCORDÉS AUX CHEFS DE MISSION DIPLOMATIQUE ÉTRANGERS ACCRÉDITÉS EN FRANCE ET A LEURS COLLABORATEURS

A) Les chefs de missions diplomatiques étrangers accrédités auprès de M. le Président de la République, et assimilés;

¹ Les trois notes dont le texte est reproduit ci-après ont été fournies par le Ministère des affaires étrangères de la République française.

B) Leurs collaborateurs figurant sur la liste des membres du corps diplomatique, et assimilés.

A) *Chefs de mission* (ambassadeurs et ministres plénipotentiaires titulaires d'une carte d'identité diplomatique de couleur *blanche*).

Ils bénéficient de :

1. — L'exemption de tous impôts directs à caractère personnel, en particulier l'impôt général sur le revenu, la contribution mobilière et les taxes annexes à cette contribution afférente à la résidence officielle;

2. — La franchise des droits de circulation sur les vins et champagne, et des droits de consommation sur les alcools, liqueurs et apéritifs achetés en France;

3. — La franchise douanière, à titre permanent, pour les objets et produits destinés à leur usage personnel, à celui de leur famille et à leurs réceptions officielles;

4. — Le droit d'importer en franchise, sous le couvert de certificats valant titres de mouvement, puis de faire immatriculer dans la série spéciale CD les voitures qui leur sont nécessaires pour leurs besoins officiels. Ils ont, en outre, le droit de faire immatriculer leur voiture principale personnelle dans la nouvelle série CMD;

A l'expiration de la mission, les automobiles, en principe, doivent être réexportées et les documents douaniers restitués à l'Administration des douanes. Toutefois, en application d'un accord intervenu entre le Ministère des affaires étrangères et l'Office des changes, la cession des voitures diplomatiques à des particuliers a été admise sous certaines conditions (une plus grande latitude est donnée au chef de mission qu'à ses collaborateurs diplomatiques).

5. — L'exonération des droits frappant l'essence utilisée pour leurs besoins propres ou pour ceux de leur mission officielle;

6. — L'immunité de juridiction.

B) *Collaborateurs diplomatiques* (conseillers, secrétaires, attachés) titulaires d'une carte d'identité diplomatique de couleur *orange* actuellement (cette couleur peut varier lors du renouvellement des cartes).

Ils bénéficient de :

1. — L'exemption de tous impôts directs à caractère personnel;

2. — L'exonération de droits lors de la première installation, pour l'importation du mobilier et des effets personnels; la libre sortie de ces mobiliers et effets, lors de la cessation des fonctions officielles;

3. — Le droit d'importer en franchise, sous le couvert d'acquits avec dispense de caution, leurs automobiles. Les bénéficiaires ne peuvent, en principe, faire immatriculer dans la série CD qu'une seule voiture;

4. — L'application des règles indiquées plus haut soit pour la réexportation soit pour la cession de leurs voitures à des particuliers;

5. — Le bénéfice du régime d'exonération des droits et taxes frappant les carburants sous le contrôle et l'égide du chef de mission diplomatique;

6. — L'immunité de juridiction.

b) NOTE RELATIVE AUX IMMUNITÉS DE JURIDICTION RECONNUES EN FRANCE AU PERSONNEL OFFICIEL DES REPRÉSENTATIONS DIPLOMATIQUES ÉTRANGÈRES

1. Les immunités de juridiction reconnues en France au personnel officiel des représentations diplomatiques étrangères se fondent sur le décret du 12 ventôse an II, ainsi conçu :

« La Convention nationale interdit à toute autorité constituée d'attenter en aucune manière à la personne des envoyés des gouvernements étrangers; les réclamations qui pourraient s'élever contre eux seront portées au Comité de Salut public qui est seul compétent pour y faire droit. »

2. Le Ministère des affaires étrangères est devenu l'héritier, par le décret du 22 messidor an XIII, des attributions reconnues au Comité de Salut public par ce texte.

3. Malgré le défaut de précision du mot « réclamations », aucun doute ne saurait exister sur le principe qu'en France les agents diplomatiques échappent à toute application de la loi pénale française, qu'ils puissent être inculpés comme auteurs, coauteurs ou complices et quelle que soit la nature de l'infraction relevée (contravention, délit, crime, soit contre des particuliers, soit contre la sûreté ou le crédit de l'État. Il résulte des observations qui précèdent que toute poursuite à fin répressive est impossible à l'encontre des représentants diplomatiques des gouvernements étrangers.

4. Cette immunité les couvre pendant toute la durée de leur mission en France et cesse du jour où ils ont regagné la frontière. Un délai normal pour rejoindre leur poste est, en général, accordé. Le Ministère des affaires étrangères apprécie dans chaque cas d'espèce l'étendue de ce délai.

5. Il est incontestable, en ce qui concerne les personnes couvertes par l'immunité, que celle-ci s'étend à tous les chefs de mission quels que puissent être leurs titres. Elle s'étend pareillement à tous ceux qui leur étant subordonnés sont néanmoins revêtus du même caractère public et représentatif. Lorsque ce caractère existe, peu importe les dénominations: conseiller d'ambassade, secrétaire, attaché, attaché militaire, attaché naval, attaché de l'air. Cette immunité s'étend en outre aux membres de la famille directe des agents diplomatiques: femme et enfants mineurs.

6. La question de savoir si les diplomates étrangers en transit sur le territoire français peuvent se prévaloir des immunités reconnues aux représentants officiels est controversée. En principe, n'étant pas accrédités auprès du Gouvernement français, ils ne peuvent revendiquer aucun privilège. Toutefois, le respect attaché à l'exercice de ces fonctions exige que la fonction officielle dont ils sont revêtus ne soit pas troublée par des interventions intempestives des autorités locales.

7. En ce qui concerne le personnel subalterne de l'ambassade ainsi que les gens de maison, le décret du 13 ventôse an II ne leur est pas applicable. Ils sont, en conséquence, soumis aux dispositions de l'article 3 du Code civil: « Les lois de police et de sûreté obligent tous ceux qui habitent le territoire. » Toutefois, les privilèges et immunités reconnus par le droit des gens aux membres officiels d'une représentation diplomatique étrangère ont été établis à l'effet de leur garantir dans la plus grande liberté l'exercice de leur mission. Le Ministère des affaires étrangères apprécie en conséquence, dans chaque cas d'espèce qui lui est soumis, les mesures qu'il conviendrait éventuellement de prendre à l'encontre des employés ou auxiliaires d'une ambassade

ou légation pour que la mission de l'envoyé diplomatique n'en subisse aucun trouble.

8. L'indépendance nécessaire au fonctionnement des missions diplomatiques étrangères ne serait complète si l'hôtel de l'ambassade ou de la légation n'était pas garanti contre les interventions des autorités locales. Bien qu'on ne puisse parler, en ce qui concerne les immeubles diplomatiques, de territoire étranger, un usage établi exige qu'ils soient exempts des visites de tous officiers publics, ministériels, de police et agents de différentes administrations, sauf si le chef de la mission diplomatique a fait appel à leur concours ou si le Ministère des affaires étrangères leur en a donné l'autorisation. La seule mesure conservatoire admise par le droit des gens est l'établissement, dans les cas extrêmement graves, d'un cordon de police autour de l'hôtel.

11. En conclusion et d'une manière générale, il ne peut être porté atteinte, directement ou indirectement, aux missions dont sont investies les représentations des États étrangers, soit auprès du Gouvernement français, soit auprès des gouvernements tiers, soit auprès d'organisations internationales. Les principes ci-dessus exposés demeurent applicables aussi longtemps que ceux auxquels ont été conférés des immunités ou privilèges, exercent leur mission dans le respect des lois et des usages. Le Ministère des affaires étrangères apprécie, s'il y a lieu, l'usage qui a été fait par le diplomate étranger des immunités qui lui ont été reconnues. Il demeure entendu qu'il est toujours possible aux autorités locales de vérifier les affirmations des intéressés relatives à leurs titres et qualités auprès du Service du protocole du Ministère des affaires étrangères.

13. Le personnel subalterne, que ce soit celui des organisations internationales ou celui des représentations diplomatiques, ne peut se prévaloir d'aucun privilège ou immunité; mais il convient de prévenir le Service du protocole si des mesures de coercition à l'encontre de ces agents s'avèrent nécessaires.

c) NOTE RELATIVE AUX IMMUNITÉS ET PRIVILÈGES DU CORPS CONSULAIRE EN FRANCE

La situation des membres du corps consulaire — consuls de carrière, honoraires ou marchands — n'étant pas fixée par un usage traditionnel, certains États ont jugé utile de définir les droits et devoirs de leurs consuls par des conventions précisant de façon très nette les immunités et privilèges dont ils peuvent se prévaloir.

Lorsqu'il n'existe aucun texte, les règles suivantes sont appliquées sous réserve d'une stricte réciprocité.

I. — IMMUNITÉ PERSONNELLE

La plupart des conventions reconnaissent l'immunité personnelle, hormis le cas de crime, aux consuls qui sont citoyens de l'État qui les nomme et n'exercent pas d'autre activité que leurs fonctions consulaires. Cette immunité personnelle est une simple exemption d'arrestation préventive; ce privilège a pour but de permettre au consul de continuer à sauvegarder les intérêts de son pays et de ses nationaux.

II. — IMMUNITÉ DE JURIDICTION

En ce qui concerne les actes de leur fonction, qu'il y ait convention ou non, les consuls jouissent de l'immunité de juridiction; elle constitue une mesure de courtoisie internationale à l'égard de l'État qui a nommé le consul.

III. — INVIOIABILITÉ DES ARCHIVES ET DE LA CORRESPONDANCE OFFICIELLE

Ce privilège a, comme le précédent, son origine dans la nature même des fonctions consulaires. C'est un principe qui existe en l'absence de toute stipulation conventionnelle. En cas de conflit, les archives consulaires sont généralement confiées au représentant d'une nation neutre et amie qui en assure la garde et l'invioiabilité. Pour les mêmes raisons, la correspondance officielle des consuls est invioiable, et par suite, ne peut être ni saisie ni visitée.

Les consuls marchands qui logent dans l'immeuble consulaire ne peuvent toutefois se prévaloir de l'invioiabilité de la demeure pour soustraire à l'action de leurs créanciers des biens autres que ceux qui garnissent normalement des bureaux et des habitations privées, tels que des marchandises.

IV. — EXEMPTION DES LOGEMENTS MILITAIRES ET EXEMPTIONS FISCALES

Les consuls bénéficient généralement de l'exemption des logements et contributions militaires, ainsi que des impôts directs, à caractère personnel, établis par l'État ou par les autorités locales. Ces exemptions résultent des conventions ou de la réciprocité et constituent une mesure de courtoisie.

a) *Impôts perçus par l'Administration des contributions directes.* — Les consuls étrangers en fonction en France sont exemptés:

1. De l'impôt général sur le revenu sous la condition que leur gouvernement accordé un avantage analogue aux agents diplomatiques français;
2. De la contribution mobilière et des taxes annexes à cette contribution (taxe sur la valeur locative des locaux d'habitation, taxe sur les locaux insuffisamment occupés) afférentes à leur résidence officielle, à l'exclusion des habitations secondaires qu'ils peuvent posséder en France à titre privé, pour leur agrément ou pour tout autre motif étranger à leurs fonctions officielles;
3. Des taxes somptuaires (taxe sur les domestiques, sur les instruments de musique, sur les voitures et chevaux, sur les chiens, etc.) applicables aux éléments attachés à leur résidence officielle.

Par contre, ils sont passibles:

1. Des divers impôts cédulaires sur les revenus pour les bénéfices qu'ils peuvent retirer de l'exercice en France de professions étrangères à leurs fonctions officielles;
2. De l'impôt foncier, de la contribution des patentes et des taxes accessoires à chacun de ces impôts pour les propriétés qu'ils possèdent en France à titre privé ou les professions qu'ils viendraient à exercer en dehors de leurs fonctions officielles;
3. Des taxes perçues en rémunération de services rendus (taxe de balayage, de déversement à l'égout, etc.).

b) *Impôts perçus par l'Administration de l'enregistrement.* — En ce qui concerne les droits d'enregistrement, les membres du corps consulaire ne bénéficient, en principe, d'aucune immunité particulière. Cependant, des exonérations,

de droits de mutation peuvent être accordées pour des acquisitions d'immeubles destinés à des consulats. Les motifs sur lesquels sont fondées ces décisions sont tirés des relations diplomatiques et de raisons de haute convenance internationale ainsi que des avantages analogues consentis à la France par les nations intéressées.

Mais les droits dont il s'agit seraient dus en cas d'acquisitions d'immeubles effectuées à titre personnel par les consuls eux-mêmes.

En ce qui concerne le droit de bail, les consuls sont soumis aux règles du droit commun, en matière de perception des droits d'enregistrement exigibles sur les contrats qu'ils sont susceptibles de passer en leur nom personnel.

c) Droits et taxes frappant les valeurs mobilières et les contrats d'assurances.

1. Impôt sur le revenu des valeurs mobilières françaises. La taxe sur le revenu des valeurs mobilières françaises constitue un impôt réel et impersonnel. Elle est en effet exigible par le seul fait de la distribution des revenus auxquels elle s'applique, sans considération de la personnalité du redevable qui perçoit les revenus.

2. Il en est de même en ce qui concerne le droit de *timbre* frappant les valeurs mobilières françaises, lequel est d'ailleurs à la charge des collectivités.

3. *Impôt sur le revenu des créances, dépôts et cautionnements.* — Cette taxe n'est exigible que si le créancier a en France soit son domicile, soit sa résidence habituelle, ou y possède un établissement commercial ou industriel dont dépend la créance, le dépôt ou le cautionnement. En conséquence, les consuls qui ne jouissent pas, comme les membres d'une mission diplomatique du bénéfice de l'exterritorialité, ne bénéficient pas de l'exonération de cet impôt.

4. *Taxe unique sur les assurances.* — Les consuls ne bénéficiant pas du privilège de l'exterritorialité ne peuvent être dispensés de la taxe sur les contrats d'assurances sur la vie ou de rentes viagères qu'ils auraient souscrits et sur tous autres contrats d'assurances. (Ils en bénéficieront d'ici quelques mois.)

5. Impôt sur le revenu des valeurs mobilières étrangères.

a) Valeurs abonnées. — L'impôt frappant les valeurs mobilières étrangères abonnées aux taxes françaises et qui sont assujetties à l'impôt sur le revenu d'après une quotité imposable fixée par le Ministère des finances, sur l'avis de la commission des valeurs mobilières est un impôt réel et impersonnel non susceptible d'exonération.

b) Valeurs non abonnées. — Les consuls qui ne jouissent pas du privilège de l'exterritorialité ne peuvent être dispensés de cet impôt, lorsqu'ils encaissent en France les revenus de titres non abonnées.

6. *Droit de timbre au comptant des valeurs mobilières étrangères non abonnées.* — Les consuls ne peuvent se prévaloir d'aucun privilège ou immunité pour être exonérés de ce droit.

7. *Impôt sur les opérations de Bourse.* — L'impôt sur les opérations de Bourse étant un droit de timbre, les consuls ne peuvent sur ce point se prévaloir d'aucun privilège.

d) Impôt de solidarité nationale. — Les personnes physiques, quelle que soit leur nationalité, domiciliées à l'étranger, ne sont assujetties à l'impôt de solidarité nationale que sur ceux de leurs biens ayant en France leur assiette matérielle ou fictive (article 3, 1^{er} alinéa de l'ordonnance du 15 août 1945). Les consuls ne sont donc passibles de cet impôt que sur ceux de leurs biens

qui ont leur assiette matérielle ou juridique en France (immeubles, coffres-forts, valeurs mobilières françaises, créances sur débiteurs français, comptes courants en France, etc.).

e) Impôts perçus par l'Administration des contributions indirectes (droits de douane)

1. Sous réserve de réciprocité, admission en franchise du mobilier, des bagages et effets personnels des membres du corps consulaire à titre de première installation.

Certains envois de vivres adressés aux consulats à l'occasion des fêtes ou manifestations spéciales bénéficient en fait de la même faveur sans qu'aucune règle n'existe à ce sujet.

2. Introduction en franchise des voitures automobiles des membres du corps consulaire sous le couvert d'acquits dispensés de caution valables un an et renouvelables. Les consuls honoraires étrangers n'exerçant aucune activité lucrative en France, citoyens de l'État qui les nomme, et n'ayant pas leur résidence habituelle en France, peuvent bénéficier de l'importation temporaire de leurs véhicules automobiles.

Le droit de timbre de la carte grise d'un montant fixé par la loi reste dû par les membres du corps consulaire.

3. Admission en franchise des écussons, pavillons, emblèmes distinctifs de nationalité, livres, archives, documents officiels et imprimés de service, adressés par leur gouvernement aux titulaires ou à leurs suppléants des consulats, vice-consulats et agences consulaires des pays qui accordent la réciprocité aux Français.

4. Les voitures admises sous le couvert d'acquits dispensés de caution peuvent être revendues en France, après avoir été immatriculées dans les séries nationales. A cet effet, les consuls doivent justifier qu'ils vont cesser leurs fonctions officielles en France pour solliciter une licence d'importation pour la voiture automobile immatriculée dans la série IT.

5. Les échantillons de produits étrangers destinés à être exposés dans un but de propagande commerciale au siège des consulats ou agences consulaires en France peuvent être admis en franchise sous réserve de réciprocité. Il est bien entendu que ces produits ne peuvent être vendus qu'après acquittement des droits et taxes exigibles pour tout produit étranger importé en France.

f) Privilèges et immunités diverses

1. Les membres du corps consulaire sont dotés d'une carte consulaire les exemptant du permis de séjour en France.

2. Les agents consulaires ne bénéficient pas de cette faveur non plus que les consuls ou vice-consuls honoraires ou marchands, tant Français qu'étrangers, exerçant une activité commerciale ou autre. Toutefois, ils sont munis d'une attestation indiquant leur qualité pour qu'ils puissent exercer leurs fonctions en toute liberté.

3. La plupart des conventions consulaires donnent aux consuls le droit d'orner d'un écusson la façade du consulat, ainsi que d'arborer le pavillon national les jours de solennités. Ces privilèges sont de simples mesures de courtoisie internationale et ne sont généralement pas refusés.

4. Une exemption particulière est accordée sous réserve expresse de réciprocité en matière de redevance de la taxe sur les appareils de radio-diffusion et de télévision.

5. Enfin, dès l'instant où le consul a reçu son exequatur, il est protégé par l'État qui le reçoit contre tous outrages et toutes violences contre sa personne, son habitation et ses bureaux.

Germany (Federal Republic) ¹

- (a) ACT OF 27 JANUARY 1877 CONCERNING THE ORGANIZATION OF THE JUDICIAL SYSTEM AS PROMULGATED IN THE FEDERAL ACT OF 20 SEPTEMBER 1950 ² AND, FOR LAND BERLIN, IN THE ACT OF 9 JANUARY 1951 ³

Exterritorial Persons

Article 18. German jurisdiction shall not extend to the heads and members of diplomatic missions accredited to the Federal Republic of Germany; nor shall such jurisdiction extend to other persons who, in virtue of the generally recognized rules of international law or under a treaty, are exempt from German jurisdiction.

Dependents and Staff of Exterritorial Persons

Article 19. The provisions of article 18 shall apply, *mutatis mutandis*, to the members of the family and to the official staff of a person referred to in article 18, and to his servants, in so far as they are not German nationals.

Competence of the Courts and Exterritorial Persons

Article 20. Nothing in articles 18 and 19 shall affect the provisions concerning exclusive jurisdiction *ratione materiae* in civil litigation.

Consuls

Article 21. Consuls appointed in the Federal Republic of Germany shall be subject to domestic jurisdiction except where arrangements have been made by treaty between the Federal Republic of Germany and other Powers to exempt consuls from domestic jurisdiction.

- (b) ADMINISTRATIVE ORDER OF 13 OCTOBER 1950 OF THE FEDERAL GOVERNMENT CONCERNING THE TREATMENT WITH RESPECT TO TAXATION OF THE DIPLOMATIC MISSIONS AND REGULAR CONSULAR AGENCIES OF FOREIGN STATES IN THE FEDERAL REPUBLIC OF GERMANY, AND OF THE GERMAN PERMANENT MEMBERS OF THE INTERNATIONAL STAFF OF THE SECRETARIAT OF THE ORGANIZATION FOR EUROPEAN ECONOMIC CO-OPERATION

With a view to providing that the diplomatic Missions and regular consular Agencies of foreign States in the Federal Republic of Germany shall enjoy the privileges and exemptions with respect to taxation to which they are entitled even before the establishment of corresponding German

¹ The texts of enactments reproduced under Germany have been provided by the Permanent Observer of the Federal Republic of Germany to the United Nations. Translation by the Secretariat of the United Nations.

² *Bundesgesetzblatt* I, p. 455.

³ *Verordnungsblatt*, p. 99.

Missions and Agencies abroad and before the conclusion of new treaty arrangements, the Federal Government hereby promulgates, under article 108, paragraph 6, of the Basic Law and with the consent of the Federal Council, the following Administrative Order:

Article 1. The procedure with regard to the privileges and exemptions with respect to taxation of the diplomatic Missions of foreign States shall continue to be governed by the general principles of international law.

Article 2. Pending the conclusion of new treaty arrangements, regular consular Agencies shall also be exempt, to the same extent as the diplomatic Missions of foreign States enjoy tax privileges and exemptions under article 1 hereof, from federal and *Land* taxation. The *Länder* shall be under a duty to ensure that the communes or communal unions also proceed in accordance herewith.

Article 3. Where the tax laws of the Federal Republic, the *Länder* and the communes or communal unions make tax exemption conditional upon reciprocity, such reciprocity shall be deemed to exist as regards the territory of the Federal Republic of Germany pending the establishment of German official agencies abroad in foreign States and the conclusion, where necessary, of new treaty arrangements to determine the extent of the tax privileges and exemptions to be reciprocally accorded to such agencies. This Order shall be liable to subsequent amendment in the light of such arrangements.

Article 4. In conformity with the foregoing provisions, the procedure with regard to individual kinds of taxation shall be as follows:

The diplomatic representatives of foreign Powers, the officials appointed to their staffs and persons in their service, provided that they do not possess German nationality, shall not be liable to income and property taxes (Tax Law Adaptation Act, article 9), but shall be subject, except in respect of their official remuneration, to the restricted tax liability (Income Tax Act, article 49; Property Tax Act, article 2). The same shall apply to consuls *de carrière*, their families and households, provided that they are nationals of the appointing State and that they carry on in Germany no profession, business or other profit-making activity apart from their official duties or service. German nationals in the service of foreign diplomatic or consular missions shall in all cases remain fully liable to tax.

The *Länder* shall be under a duty to ensure that the families of foreign diplomatic Missions and regular consular agencies are exempted from all other *Land* and communal taxation, to wit, house-building taxes, housing emergency taxes and the like, dog-licence taxes and charges for hunting and fishing licences.

(c) TAX LAW ADAPTATION ACT OF 16 OCTOBER 1934¹

Article 9. Individuals, associations of persons, bodies corporate and estates shall be exempt from the taxes on income and property where they are entitled to claim such exemption from these taxes on the grounds of:

¹ *Reichsgesetzblatt* I, p. 925.

- (1) The general principles of international law, subject to reciprocity; or
- (2) Special arrangements with other States.

(d) INCOME TAX ACT OF 21 DECEMBER 1954¹

I. LIABILITY TO TAX

Article 1.

- (2) An individual who has no permanent dwelling and is not ordinarily resident in the Federal Republic shall be subject to restricted income tax liability in respect of his income from domestic sources as defined in article 49.

VII. TAXATION OF PERSONS SUBJECT TO RESTRICTED TAX LIABILITY

Article 49. Income subject to restricted tax liability

For the purposes of restricted tax liability (article 1, paragraph 2) income from domestic sources means:

- (1) Income from an agricultural and forestry undertaking in the Federal Republic;
- (2) Income from a business establishment for which business premises are maintained in the Federal Republic or a permanent representative is appointed, and income from the sale of a participation in a domestic joint stock company and from the sale of mineral resources;
- (3) Income from an independent profession or trade which is or has been exercised or remunerated in the Federal Republic;
- (4) Income from a profession or trade, other than an independent profession or trade, which is or has been exercised or remunerated in the Federal Republic, and income paid out of domestic public funds, including the funds of the German Federal Railways and of the *Bank deutscher Länder*, in respect of present or past employment or service;
- (5) Income from capital as defined in article 20, paragraphs 1 (1) and (2), if the debtor's residence, place of management or head office is in the Federal Republic, and income as defined in article 20, paragraphs 1 (3) and (4), if the capital is secured, directly or indirectly, by domestic land property, domestic titles under the provisions of civil law respecting land holdings, or ships registered in a domestic register of shipping. Dividends on preference shares in the German State Railways and interest from loans and claims which are registered in a public register of debts or in respect of which debenture shares have been issued shall be excepted from the foregoing. Income from debenture shares shall, however, be subject to restricted tax liability if they carry, in addition to the fixed interest, the right to exchange them for company shares (convertible bonds) or if they entitle the holder to additional interest varying according to the amount of profits declared by the debtor (participating debentures), and if the debtor's residence, place of management or head office is in the Federal Republic;
- (6) Income derived from hiring and letting, if the immovable property, chattels or rights are situated in the Federal Republic or registered in a

¹ *Bundesgesetzblatt* I, p. 463. The relevant provisions are not affected by subsequent amending acts.

domestic public record or register or exploited in business premises in the Federal Republic;

- (7) Other income as defined in article 22 (1), if subject to tax deduction;
- (8) Other income as defined in article 22 (2), if such income is derived from speculative transactions in domestic land holdings or domestic titles under the provisions of civil law respecting land holdings.

. . . .

(e) PROPERTY TAX ACT OF 10 JUNE 1954¹

. . . .

Article 2. Restricted tax liability

(1) The following persons shall be subject to restricted tax liability:

1. Individuals who have no permanent dwelling and are not ordinarily resident in the territory in which the Basic Law is in force or in Land Berlin;

2. Bodies corporate, associations of persons and estates which have neither their place of management nor their head office in the territory in which the Basic Law is in force or in Land Berlin.

(2) The restricted tax liability shall apply only to property of the kinds enumerated in article 77 of the Valuation Act pertaining to the territory in which the Basic Law is in force or to Land Berlin.

. . . .

(f) VALUATION ACT OF 16 OCTOBER 1934,² AMENDED 1 DECEMBER 1936 AND 16 JANUARY 1952³

. . . .

Article 77. (1) In the case of persons subject to the restricted tax liability as defined in the Property Tax Act, the value of property in the Federal Republic only shall be assessed.

(2) The property in the Federal Republic of a person subject to the restricted tax liability shall be deemed to include:

- 1. Agricultural and forestry property in the Federal Republic;
- 2. Land property in the Federal Republic;
- 3. Business property in the Federal Republic, that is to say, the property used for a business carried on in the Federal Republic, if a business establishment is maintained or a permanent representative is appointed for that purpose in the Federal Republic.
- 4. Copyrights, patents and other industrial property rights not covered by sub-paragraph 3 hereof which are registered in a domestic record or register, other than copyrights in artistic, literary or musical works;
- 5. Industrial and commercial goods not covered by sub-paragraphs 1, 2 and 4 hereof which are placed at the disposal of a domestic industrial business and in particular hired or let to such business;
- 6. Mortgages, debts in respect of land, debts in respect of securities, and other claims or titles, if they are secured, directly or indirectly, by domestic

¹ *Bundesgesetzblatt* I, p. 137.

² *Reichsgesetzblatt* I, p. 1035.

³ *Ibid.*, p. 961 and *Bundesgesetzblatt* I, p. 22, respectively.

land property, by domestic titles to land holdings and the like or by ships registered in a domestic register of shipping. Loans and claims in respect of which debenture shares have been issued shall be excepted from the foregoing.

7. Claims arising out of participation in a commercial business as a sleeping partner, if the debtor's residence, place of management or head office is in the Federal Republic.

(g) LAND ACQUISITION TAX OF 29 MARCH 1940 ¹

Article 4. Special exemptions from tax

(1) Land acquisitions of the following kinds shall be exempt from tax:

6. An acquisition of land for diplomatic purposes. The acquisition of a land holding by a foreign State, if such land holding is intended to be used for the purpose of an Embassy, Mission or Consulate of that foreign State and if reciprocity is granted. The existence and extent of reciprocal arrangements shall be determined by the Reich Minister of Finance.

(h) LAND TAX ACT OF 1 DECEMBER 1936 ²

Article 4. Exemptions

Land property of the following kinds shall be exempt from the Land Tax:

10. The land property of a foreign State, where such property is used for the purposes of an Embassy, Mission or Consulate of that State, subject to the granting of reciprocity.

NOTE. The exemptions provided for in the case of the land acquisition tax and the land tax shall also apply to land acquired or owned by the foreign State for the accommodation of the members and households of foreign missions.

(i) ORDER FOR THE EXECUTION OF THE LAND TAX ACT OF 1 JULY 1937 ³

Ad article 4 (10) of the Act — Foreign Missions

Article 21. Consulates

For the purposes of article 4 (10) of the Act, the term "consulate" means:

1. The office of a *consul de carrière*;
2. The office of a *consul electus*, where the head of such consulate possesses the nationality of the appointing State, receives his remuneration from the

¹ *Reichsgesetzblatt* I, p. 585.

² *Ibid.*, p. 986.

³ *Reichsgesetzblatt* I, p. 733.

funds of the foreign State and carries on no activity other than his consular duties.

Article 22. Use for housing purposes

The land property of a foreign State shall be deemed to be used for the purposes of an Embassy, Mission or Consulate (article 21), if it is used for the accommodation of the officials or employees of the foreign mission or agency.

(j) ACT OF 1 JANUARY 1950 TO LEVY A BERLIN EMERGENCY AID TAX ¹

V. TAX ON POSTAL COMMUNICATIONS

Article 14. Extent of tax liability.

(2) The following postal communications shall be exempt from the tax:

1. The official communications of the High Commission and its offices, and of foreign missions and consulates;

(k) REGULATIONS OF 5 JULY 1935 FOR THE EXECUTION OF THE MOTOR VEHICLES TAXATION ACT ²

5. *Motor vehicles of representatives of foreign States*

Article 47. (1) Subject to the granting of reciprocity, the tax may be waived upon application in the following cases:

1. Official motor vehicles licensed for the use of one of the diplomatic missions of foreign States accredited to the German Reich;

2. Motor vehicles licensed for the use of a member of a diplomatic mission referred to in paragraph 1 hereof or of a person belonging to the official staff of such mission and not subject to domestic jurisdiction;

3. Official motor vehicles licensed for the use of one of the consular agencies of foreign States admitted to the German Reich, if the head of such agency is a career official and a national of the appointing State and carries on no business activity in the German Reich other than his official functions;

4. Motor vehicles licensed for the use of a consular representative (consul-general, consul, vice-consul or consular agent) admitted to the German Reich or of an official appointed to his staff, if the applicant is a career official and a national of the appointing State and carries on no business activity in the German Reich other than his official functions.

(2) The existence and extent of reciprocal arrangements shall be determined by the Reich Minister of Finance.

¹ *Bundesgesetzblatt* I, p. 341.

² *Reichsgesetzblatt* I, p. 875.

(l) PETROLEUM TAX ACT OF 21 MAY 1953,¹ AS AMENDED²*Article 10. Tax refund*

Any tax payable or paid on petroleum which can be proved to have been received back into stock by the producer may be waived or refunded upon application. The same shall apply to petrol which has been issued under the conditions relating to importation laid down in article 69, paragraphs (1) 9 and 1(10) of the Customs Act to a person or agency referred to therein.

(m) ORDER OF 26 MAY 1953 FOR THE EXECUTION OF THE PETROLEUM TAX ACT³*Ad articles 9 and 10 of the Act*

Article 38. (1) The procedure laid down in article 1, paragraph 1(3) and articles 17 to 19 of the Petroleum Duty Reimbursement Regulations⁴ shall apply, *mutatis mutandis*, to the waiver or refund of tax in the case provided for in article 10, second sentence of the Act.

(n) REGULATIONS OF 13 JULY 1937 FOR THE EXECUTION OF THE INSURANCE TAX ACT OF 9 JULY 1937⁵*Article 29. Representatives of foreign States*

(1) An insurance premium shall be exempt from tax when paid directly to a foreign insurer by:

1. A diplomatic mission of a foreign State accredited to the German Reich;
2. A member of a diplomatic mission referred to in sub-paragraph 1 or a person belonging to the official staff of such mission and not subject to domestic jurisdiction;
3. A consular agency of a foreign State admitted to the German Reich, if the head of such agency is a career official and a national of the appointing State and carries on no business activity in the German Reich other than his official functions;
4. A consular representative (consul-general, consul, vice-consul or consular agent) admitted to the German Reich, or an official appointed to his staff, if the applicant is a career official and a national of the appointing State and carries on no business activity in the German Reich other than his official functions.

(2) If the insurance premium is paid to an agent in Germany of the foreign insurer, the tax shall be payable.

¹ *Bundesgesetzblatt* 1953, I, p. 234.

² The provisions of article 10 are not affected by the subsequent amending acts.

³ *Bundesgesetzblatt* 1953, I, p. 237.

⁴ The text of these Regulations may be found in *ibid.*, 1953, I, p. 260.

⁵ *Reichsgesetzblatt* I, p. 793.

(o) CUSTOMS ACTS OF 20 MARCH 1939 ¹

G. CUSTOMS EXEMPTIONS

Article 69. (1) In conformity with detailed regulations to be made by the Reich Minister, import duty shall not be levied on:

10. The property of diplomatic missions and consulates, articles for official use by the diplomatic and consular missions and agencies of foreign Governments accredited to the German Reich, articles to be used for the building or alteration of diplomatic or consular premises, or as parts of permanent installations in such premises, to an extent to be determined by the reciprocal arrangements granted by such foreign Governments;

(2) The foregoing customs exemptions may be withdrawn by the Reich Minister of Finance as regards States which fail to grant reciprocal privileges or if such exemptions are abused to evade customs duties or import prohibitions.

(p) REGULATIONS FOR THE EXECUTION OF THE CUSTOMS ACT (GENERAL CUSTOMS REGULATIONS) OF 21 MARCH 1939 ²

Ad article 69, paragraph (1) 10

Article 112. (1) Customs exemptions as provided for in article 69, paragraph (1)10 of the Customs Act shall be granted, to the extent that reciprocity is accorded, in respect of:

1. Diplomatic property, that is to say, goods entering directly from outside the customs area, or from free ports, which are intended for the personal use or consumption of:

(a) The head, the diplomatic members or the alien staff of the office and chancellery of a diplomatic mission in the German Reich;

(b) The members of the family of a person referred to in (a);

2. Consular property, that is to say, goods entering directly from outside the customs area, or from free ports, which are intended for the personal use or consumption of:

(a) An alien member, not carrying on any private business activity in Germany, of a consular agency in the German Reich;

(b) The members of the family of a person referred to in (a);

3. Articles sent by foreign Governments from outside the customs area to their diplomatic or consular missions or agencies in the German Reich for the official use of such missions or agencies;

4. Articles sent by foreign Governments from outside the customs area to their diplomatic or consular missions or agencies in the German Reich which are to be used for the building or alteration of the premises of such missions or agencies or as parts of permanent installations in such premises.

¹ *Reichsgesetzblatt I*, p. 529.

² *Reichsministerialblatt*, p. 313.

(2) For the purposes of paragraphs (1) 1(b) and (1) 2(b) hereof, the term "members of the family" means the wife, the minor children, the unmarried children of full age and the parents of a person referred to in paragraphs (1) 1(a) and (1) 2(a) hereof if they are economically dependent on such person and live as members of his household.

(3) The grant of customs exemption shall be subject to the following conditions: (administrative provisions).

(4) The customs house shall pass diplomatic property, consular property, articles for official use, etc. for duty-free entry without customs inspection.

(5) With regard to the mission of the Holy See to the German Reich, the provisions of paragraphs (1) 1(a), (1) 3, (1) 4, (3) 1 and 3 and (4) shall be applied *mutatis mutandis*.

(6) The extent to which customs exemptions are to be granted to diplomatic and other missions, their officials and dependents in accordance with the degree of reciprocity extended by the respective foreign Governments shall be announced in the *Reichszollblatt* (Reich Customs Bulletin).

Grèce

a) BREF MÉMORANDUM¹ SUR LES IMMUNITÉS DES AGENTS DIPLOMATIQUES ET CONSULAIRES ÉTRANGERS EN GRÈCE, ANNEXÉ À LA NOTE DU 9 AVRIL 1956 REÇUE DU REPRÉSENTANT PERMANENT DE LA GRÈCE AUPRÈS DES NATIONS UNIES

1. Les dispositions de droit positif interne, relatives aux immunités des agents diplomatiques sont celles de l'article 26 du Code de la procédure civile et de l'article 2 du Code de la procédure pénale hellénique, consacrant d'une façon générale, respectivement, l'immunité de juridiction civile et pénale des agents en question, ainsi que les dispositions contenues dans certaines lois fiscales et douanières et dans la loi sur les réquisitions accordant des exemptions aux agents diplomatiques et consulaires.

2. A part les dispositions précitées, qui ne visent qu'une partie très restreinte des immunités, ces dernières sont régies en Grèce par le droit international, dont les règles qui sont généralement admises, ont selon un principe établi par une jurisprudence constante, force de loi interne.

3. Pour ce qui est des immunités des agents consulaires elles se trouvent réglées par quelques-unes des lois précitées et, pour une large part, par les conventions consulaires ou autres que la Grèce a contractées avec la plupart des États; les règles du droit des gens ont dans ce cas une application subsidiaire.

4. Le traitement plus favorable en Grèce des agents consulaires de quelques États ne pourrait avoir d'autre raison que l'existence d'une convention spéciale, ou l'admission de la clause de la nation la plus favorisée dans les rapports de la Grèce avec les États en question.

b) CODE DE PROCÉDURE CIVILE (ARTICLE 26)

Seront exempts de la juridiction ordinaire (des tribunaux civils grecs) tous les étrangers, qui jouissent en Grèce du droit appartenant aux missions diplomatiques.

¹ Le texte de ce mémorandum aussi bien que celui des lois et règlements reproduits ci-après ont été fournis en français.

c) CODE DE PROCÉDURE PÉNALE HELLÉNIQUE (LOI N° 1493 DU 17 AOÛT 1950)
(ARTICLE 2)

Dérogations à la juridiction pénale.

Ne sont pas soumis à la juridiction des Tribunaux pénaux grecs:

- a) Les chefs des États étrangers;
- b) Leurs représentants diplomatiques accrédités en Grèce;
- c) Le personnel de la représentation diplomatique d'un État étranger, accrédité en Grèce;
- d) Les membres de la famille des personnes mentionnées *sub. cit.* (a) et (b), qui habitent avec celles-ci;
- e) Le personnel domestique des personnes mentionnées *sub. cit.* (a) et (b), s'il possède la même nationalité et
- f) Toutes autres personnes jouissant du bénéfice d'exterritorialité en vertu de conventions (signées) avec d'autres États ou de coutumes internationales communément admises.

d) CODE DE L'IMPÔT SUR LES REVENUS NETS (DÉCRET DU 6/10 SEPTEMBRE 1929)

Article 25 (relatif à l'impôt sur les services rétribués), *alinéa 1^{er}*. Sont exonérés de l'impôt:

. . .

- b) Les ministres étrangers et les autres représentants et agents diplomatiques, à titre de réciprocité;
- c) Également, à titre de réciprocité, les consuls et agents consulaires étrangers, ainsi que le personnel subalterne des légations et consulats étrangers, pour autant qu'ils ne se livrent pas en Grèce à des entreprises productives de revenus des catégories 4, 5 et 7 (entreprises commerciales et industrielles, entreprises agricoles ou d'élevage, professions libérales).

Article 30 (relatif à l'impôt complémentaire sur les revenus nets globaux), *alinéa 7*.

Seront exonérés de l'impôt:

. . .

- b) Les ministres étrangers et les autres représentants et agents diplomatiques à titre de réciprocité;
- c) Également, à titre de réciprocité, les consuls et agents consulaires étrangers, ainsi que le personnel subalterne des légations et consulats étrangers, pour autant qu'ils ne se livrent pas en Grèce à une entreprise productive de revenu des catégories agricoles ou d'élevage, professions libérales.

e) LOI 5822/1933 RELATIVE À L'IMPÔT SUR LE CHIFFRE D'AFFAIRES

Article 13 (relatif à la taxe d'importation), *paragraphe 4*.

Les objets importés en franchise, en vertu d'une loi spéciale ou d'une convention, seront soumis à l'impôt prévu par le présent article, à l'exception des bagages des voyageurs importés en franchise, ainsi que des articles des agents diplomatiques étrangers.

f) LOI 412/1936 CONCERNANT L'EXPLOITATION DES COMMUNICATIONS ROUTIÈRES SUBURBAINES PAR DES MOYENS MOTORISÉS

Article 6 (relatif aux droits à percevoir sur les voitures automobiles des particuliers, circulant sur des lignes suburbaines), *paragraphe 2*.

Ne seront pas soumis à cette disposition:

. . .

2) Ceux (les moyens motorisés) qui appartiennent au corps diplomatique.

g) LOI 95/1936 PORTANT CONSTITUTION D'UN SERVICE D'ÉMISSIONS RADIO-PHONIQUES

Article 5 (relatif à l'abonnement annuel des possesseurs d'appareils radiophoniques).

. . .

Ne seront exempts du paiement de l'abonnement que les services militaires et civils radio-électriques, les légations et les consulats des États étrangers à titre de réciprocité.

h) DÉCRET ROYAL DU 23 JANVIER/9 FÉVRIER 1937 PORTANT CODIFICATION DES DISPOSITIONS RELATIVES À LA CAISSE SPÉCIALE DES CHAUSSÉES PERMANENTES DES RUES D'ATHÈNES

Article 16 (relatif aux exemptions du droit de péage, établi par cette loi), *paragraphe 1*.

Seront exonérés du paiement du droit de péage:

. . .

b) Les voitures des représentants des États étrangers.

. . .

i) LOI 4442/1929 SUR LES CONTRIBUTIONS ET AFFRÈTEMENTS MILITAIRES ET NAVALS

Article 132, paragraphe 1:

Ne seront pas compris dans les listes (de recensement) de l'article précédent:

. . .

3) les animaux, voitures, voitures automobiles et motocyclettes, appartenant à des agents diplomatiques des États étrangers accrédités auprès de l'État hellénique, ressortissants desdits États.

. . .

Article 132, paragraphe 2:

Lorsqu'ils sont employés à l'exploitation des propriétés qui leur appartiennent à titre de propriété, d'usufruit, ou de location, ou à l'exercice d'une profession industrielle ou commerciale ils doivent être inscrits dans les listes de recensement.

Article 146, paragraphe 3:

Seront exempts de la visite et de la classification ceux (animaux, voitures, etc.) qui figurent dans l'article 132, en tant que non compris dans les listes

de recensement. Ils seront toutefois soumis à la visite et classification, si les conditions prévues par l'alinéa 2 du même article 132 du Code se trouvent réunies.

Article 162, paragraphe 1: Ne devront être conduits dans les centres de réquisitions en vue d'une réquisition:

. . .

6) Les animaux, voitures et voitures automobiles appartenant à des agents diplomatiques, ressortissants de l'État qu'ils représentent auprès de l'État hellénique;

7) Ils y seront toutefois conduits ceux appartenant à des agents diplomatiques des États étrangers, accrédités auprès de l'État hellénique, si, appartenant à ces derniers à titre de propriété, d'usufruit ou de location, sont employés à l'exercice d'une profession industrielle ou commerciale ou à l'exploitation de propriétés.

j) ARRÊTÉ MINISTÉRIEL N° 1 PORTANT EXEMPTION DE TAXES D'IMPORTATION ET DE N'IMPORTE QUEL IMPÔT OU DROIT, FRAPPANT LES OBJETS PROVENANT DE L'ÉTRANGER ET APPARTENANT AU PERSONNEL DES MISSIONS DIPLOMATIQUES ÉTRANGÈRES, ETC.

Le Ministre des finances:-Vu l'article 1, paragraphe 1 (a) de la loi sub n° 317/1936 du 5 novembre 1936 portant réglementation de certaines matières douanières, nous ordonnons ce qui suit, en ce qui concerne les exemptions douanières sur certains objets importés par les agents diplomatiques et consulaires étrangers.

PERSONNEL DIPLOMATIQUE

Article 1^{er}. 1) Sont exemptés, à titre de réciprocité, de la taxe d'importation et de tous impôts ou droits frappant les objets provenant de l'étranger, ceux appartenant:

a) Aux chefs des missions diplomatiques étrangères accrédités en Grèce;

b) A l'autre personnel diplomatique officiel des légations étrangères en Grèce, enregistré chaque fois dans l'annuaire y afférant du Ministère des affaires étrangères et

c) Aux membres de la Commission financière internationale.

2. L'exemption douanière ci-dessus prévue n'est pas limitée aux objets compris dans les bagages ou importés lors du premier établissement des personnes en question, mais elle s'étend également à ceux qui leur sont envoyés de quelque manière que ce soit (par la poste ou par connaissance).

3) Les objets destinés aux personnes précitées seront délivrés sans aucune visite ou vérification de la part des autorités douanières et sans dépôt de documents de douane; la livraison se fera sur la base d'une lettre du ministre étranger, visée par le Ministère des affaires étrangères et portant le sceau aussi bien de la légation que du Ministère. Pour les bagages accompagnant ces personnes la production d'une telle lettre n'est point requise.

Les lettres en question, ainsi que les ordres des sociétés ou agences de transport, serviront de pièces justificatives pour l'acquittement de la déclaration d'importation.

Dans le cas où les objets en question serviront par colis postaux ou petits colis, les lettres précitées serviront de pièces justificatives pour l'acquittement de la déclaration postale d'importation.

AUTRE PERSONNEL DES LÉGATIONS

Article 2.

1) Les personnes qui ne font pas partie du personnel diplomatique (tels les archivistes, greffiers, dactylos) sont soumises à toutes les formalités et paiements douaniers.

Toutefois, sur la proposition du Ministère des affaires étrangères et après autorisation spéciale du Ministre des finances, pourra être autorisée, sous réserve de réciprocité, l'importation par elles, sans paiement de n'importe quel droit ou impôt, d'objets neufs ou usagés appartenant à leur premier établissement, ainsi que l'octroi de facilités douanières ou faveurs de taxes à la condition que pareilles facilités ou faveurs sont accordées respectivement à nos agents de cette catégorie se trouvant à l'étranger par les États aux agents desquels il s'agit d'accorder les facilités et faveurs précitées.

PERSONNEL CONSULAIRE

Article 3.

1) Par autorisation spéciale du Ministère des finances accordée chaque fois sur la proposition du Ministère des affaires étrangères, seront exemptés, sous réserve de réciprocité, de la taxe d'importation et de tous impôts ou droits, les meubles et effets du premier établissement, appartenant aux consuls des gouvernements étrangers en Grèce, pour autant que ces meubles et effets sont importés dans les trois mois qui suivront l'arrivée du consul auquel ils appartiennent.

2) L'autre personnel des consulats est soumis au paiement des droits et impôts pour les objets qu'il fera entrer. Pourra toutefois être autorisé l'octroi, sous réserve de réciprocité, de facilités douanières ou l'exemption complète de paiement de tous taxes et impôts pour des meubles et effets usagés de leur premier établissement, importés par eux, à l'exception de vins, spiritueux et articles de monopole.

3) Particulièrement, en ce qui concerne les consuls de carrière de la Grande-Bretagne, sera appliqué l'arrangement conclu entre la Grèce et la Grande-Bretagne, ratifié par la loi 4654, concernant la dispense réciproque de visite des bagages des agents consulaires en question.

4) Les consuls et en général le personnel consulaire, cités dans le présent article seront soumis à toutes les formalités douanières, y compris la visite, même dans les cas où ils jouissent dans les conditions ci-dessus énoncées et sous réserve de réciprocité de la franchise douanière.

Exceptionnellement seront dispensés de la visite, et cela seulement lors de leur première arrivée, les consuls de carrière de la Grande-Bretagne, conformément aux obligations assumées par l'arrangement ratifié par la loi 4654.

5) Sont considérés comme objets de premier établissement des consuls et en général des agents consulaires ceux qui seront importés dans les trois mois à partir de l'arrivée desdites personnes et qui serviront à leur installation en Grèce. Ce délai pourra être chaque fois prorogé sur la proposition du Ministère des affaires étrangères, si des raisons appropriées justifieront une telle mesure.

6) Les écussons, pavillons et leurs hampes, les emblèmes consulaires et autres articles du service de l'État, ainsi que les fournitures de bureau et les imprimés, que les gouvernements fournissent à leurs consulats, seront

également exemptés, à titre de réciprocité, de tous taxes d'importation, impôts ou droits par une autorisation spéciale du Ministre des finances rendue sur la proposition du Ministère des affaires étrangères.

AUTOMOBILES IMPORTÉES PAR DES AGENTS DIPLOMATIQUES ÉTRANGERS

Article 4.

Spécialement pour ce qui est d'automobiles importées en franchise par les chefs des missions diplomatiques étrangères et par les membres de la Commission financière internationale, qui seraient expropriées après un usage de deux ans en Grèce, pourront être exemptées du paiement des taxes même au moment de leur expropriation, si la législation du pays au service duquel l'agent diplomatique appartient, consacre une pleine réciprocité.

Les expropriations d'automobiles, importées en franchise par des agents diplomatiques étrangers, effectuées avant l'expiration d'un délai de deux ans à compter de l'importation, ne pourront bénéficier d'aucune facilité ou franchise, même si dans l'État, au service duquel appartient le possesseur de l'automobile, est en vigueur un régime différent.

En ce qui concerne les autres agents diplomatiques, c'est-à-dire tous ceux qui ont la qualité diplomatique, à l'exception des chefs des missions diplomatiques auxquels seront appliqués les deux alinéas précédents, l'article 10 de la loi 5200 sera appliqué quant aux automobiles importées par eux, dans le cas seulement où ces automobiles seront expropriées après l'expiration d'un délai de deux ans à compter de leur importation. De même, les automobiles appartenant à des consuls de carrière des États étrangers, ayant droit à une franchise douanière, ne pourront être expropriées qu'au cas de déplacement de leur possesseur et pour autant que les consuls en question auront résidé en Grèce au moins pendant une durée de deux années.

Dans ce cas c'est l'article 10 de la loi 5200 qui sera également appliqué.

Article 5.

Par décisions prises conjointement par les Ministres des affaires étrangères et des finances, sur la proposition de ce dernier, des facilités, même dérogeant aux règles générales des lois douanières, pourront être accordées aux agents diplomatiques et consulaires des États étrangers, exerçant leurs fonctions en Grèce, à la condition que les États en question appliquent réciproquement un régime de facilités douanières analogues à l'endroit de nos agents diplomatiques et consulaires, exerçant leurs fonctions aux États pour les fonctionnaires (diplomatiques ou consulaires) desquels l'octroi de ces facilités est demandé. Sont également considérées comme facilités de ce genre la livraison au libre usage d'objets d'un usage domestique ou individuel appartenant au personnel auxiliaire et aux domestiques des légations et des consulats et, dans les cas où la loi exige une caution pécuniaire, l'acceptation d'une lettre de garantie émanant de la légation.

Les alinéas (c) et (d) de l'article 26 du Tarif douanier d'importation seront abrogés.

Guatemala ¹

(a) DÉCRET NO. 1780 OF 20 JANUARY 1939 (DIPLOMATIC CEREMONIAL)

CHAPTER II

Conduct of Business

Article 7. The Ministry of Foreign Affairs shall be the normal channel for communication with Legations accredited to Guatemala.

Article 8. The Minister of Foreign Affairs shall be responsible for the conduct of business and shall sign all correspondence addressed to chiefs of mission.

In the temporary or permanent absence of the Minister of Foreign Affairs, pending the appointment by the President of the Republic of a definite or provisional replacement, the Under-Secretary shall be officially in charge of the Ministry.

Article 9. Ambassadors, Ministers Plenipotentiary, Ministers Resident and chargés d'affaires holding *lettres de cabinet*, shall deal directly with the Minister of Foreign Affairs, or in his absence, with the Under-Secretary.

If, for any reason, a chief of mission is unable to attend in person at the Ministry of Foreign Affairs, the Counsellor or Secretary whom he sends in his place shall see the Under-Secretary.

Article 10. A chargé d'affaires *ad interim* shall treat only with the Under-Secretary of Foreign Affairs.

Article 11. In addition to the day appointed by him for receiving diplomatic agents the Minister of Foreign Affairs may grant them other interviews, provided they make the request in advance through the Protocol Division.

Article 12. When the Minister of Foreign Affairs has to confer with a chief of mission, he shall send him a *note verbale*, inviting him to come to the Ministry and specifying the day and hour as well as the reason where this can be stated.

Article 13. Communications of a collective nature which the government wishes to make to the diplomatic corps may be made either direct to the chiefs of mission or to the *Doyen* of the diplomatic corps for the latter to advise the various missions.

CHAPTER III

Diplomatic Rank

Article 14. The Government of the Republic recognizes the following classes of diplomatic agents:

Ambassador Extraordinary and plenipotentiary; Envoy Extraordinary and Minister Plenipotentiary; Minister Resident; Chargé d'affaires; Chargé d'affaires *ad interim*; Counsellor; First Secretary; Second Secretary; Third Secretary; Attaché.

¹ The texts of laws and regulations reproduced under Guatemala have been provided by the Permanent Representative of Guatemala to the United Nations. Translation by the Secretariat of the United Nations.

CHAPTER IV

Arrival of a Foreign Diplomat

Article 15. Upon being advised of the pending arrival of an Ambassador, Minister Plenipotentiary or Minister Resident accredited to Guatemala, the Ministry of Foreign Affairs shall issue the necessary orders to the Harbour Commandant of the port of landing, or to the competent frontier authorities, to extend to him the appropriate courtesies and facilities.

The Chief Officer of Customs shall likewise be advised, in order that the customary exemptions with respect to baggage inspection and import duties may be granted.

Departmental officials along a diplomatic representative's route to the capital are required to attend upon him.

Article 16. If the chief of mission concerned is arriving in the country for the first time to present his credentials to the government, the Ministry of Foreign Affairs shall see to it that he is provided with Pullman accommodation on any train he wishes for his journey to the capital with his family.

Similar courtesies shall be extended to him when he leaves the country upon termination of his mission.

These courtesies shall be granted only to chiefs of mission, and in the circumstances mentioned; but exemption from examination of baggage and payment of customs duties shall be granted, subject to reciprocity, to Counsellors, Secretaries and attachés of foreign diplomatic missions.

Article 17. The Chief, or Assistant Chief, of Protocol, shall meet the diplomatic representative at the railway station or airport and accompany him to his place of residence.

CHAPTER V

Reception of chiefs of mission

Article 18. Ambassadors, Ministers Plenipotentiary, and Ministers Resident shall be received in accordance with protocol, as indicated hereunder.

Article 19. A chief of mission shall, upon arrival at the capital of the Republic, inform the Minister of Foreign Affairs of his arrival through the chargé d'affaires or a Secretary of the mission, or, failing them, in writing, requesting that a day and hour be appointed for a preliminary courtesy visit.

Article 20. The chief of mission shall, at his first visit, hand the Minister of Foreign Affairs copies of his credentials and of his predecessor's letter of recall, along with his written request for an audience with the President of the Republic.

Article 21. The Minister of Foreign Affairs shall return the visit through the Chief of Protocol, who shall deliver to the chief of mission concerned a communication appointing a day and hour for his audience with the President of the Republic.

Article 22. On the day appointed for the audience, shortly before the time fixed, the Chief of Protocol shall call at the residence of the chief of mission and invite him to take the seat of honour in the official car. The Chief of Protocol shall sit on his left.

If there are Counsellors, Secretaries, and Attachés, the Assistant Chief of Protocol shall also be present, and shall accompany the mission staff in another car.

Article 23. Upon arrival at Government House, the Presidential Chief of Staff shall invite the chief of mission into the audience chamber, where the Minister of Foreign Affairs or, in his absence, the official designated for the purpose, shall receive him and present him to the President of the Republic, who shall invite him to sit on his right. The chief of mission shall present his credentials and his predecessor's letters of recall. The President of the Republic shall hand these over to the Minister of Foreign Affairs.

After a brief conversation, the diplomatic representative shall introduce the staff of his mission and withdraw.

Article 24. The President of the Republic shall be accompanied at the reception by the Minister of Foreign Affairs.

Morning dress or uniform shall be worn by the diplomatic representatives, and morning dress by the Guatemalan officials; holders of military rank may, however, wear the full-dress uniform of their rank.

Article 25. The Protocol Division of the Ministry of Foreign Affairs shall arrange for the national flag to be flown that day over the Presidential Palace and the Ministry building.

Article 26. The ceremonial shall be followed in the case of envoys on special mission to the Guatemalan Republic from their Governments.

Article 27. This ceremonial shall likewise be followed, in so far as it is applicable, for the public reception of a chief of mission presenting letters written by the Chief of the State to which he belongs to the President of the Guatemalan Republic to announce the award of an honorary distinction.

Article 28. If in connexion with any special event several Envoys on special mission should visit the country simultaneously, arrangements for their reception, treatment, etc., shall be made in accordance with a special protocol prepared in advance by the Ministry of Foreign Affairs, in agreement with the diplomatic representatives of the States concerned or, if there are none, directly with the governments accrediting such special Envoys.

Article 29. If two or more chiefs of mission equal in status present their credentials simultaneously, they shall be received in the order in which the Ministry of Foreign Affairs receives their requests for an audience in accordance with articles 18 and 19 of these Ceremonial Regulations.

CHAPTER VI

Reception of chargés d'affaires

Article 30. On arrival in the capital, a chargé d'affaires *en pied* shall visit the Minister of Foreign Affairs, to whom he shall present his *lettre de cabinet*.

Article 31. Chargés d'affaires *en pied* shall be presented by the Minister of Foreign Affairs to the President of the Republic, after their credentials have been duly accepted, and at the time appointed for them.

Article 32. Chargés d'affaires *ad interim* shall be presented to the Minister of Foreign Affairs by the chief of mission concerned before the latter leaves the country. If this is not possible, they shall be accredited by means of a note addressed to the Ministry by the chief of mission concerned or by the Ministry of Foreign Affairs of his country.

Article 33. If the death of a chief of mission should occur, a chargé d'affaires *ad interim* may be provisionally recognized in his stead, provided his government confirms the appointment by a note or telegraphic message.

CHAPTER VII

Consuls

Article 34. Consuls shall not enjoy diplomatic status in the Republic. They shall be authorized by means of an exequatur and they shall maintain such relations with the national authorities as are established by the laws of the country and international legal practice for official commercial agents. In respect of their private business they shall be subject to the laws generally applicable to the inhabitants of the Republic.

Article 36. Foreign consuls who have any question to discuss with the Ministry of Foreign Affairs shall see the Under-Secretary and, in matters exclusively of protocol, the Chief of Protocol.

CHAPTER VIII

Relations of the Diplomatic Corps with the National Authorities

Article 37. Within forty-eight hours after being received for the presentation of their credentials or *lettres de cabinet*, chiefs of mission may visit, or leave calling cards with Guatemalan Cabinet Ministers and with public officials whose names appear on the list to be given them by the Protocol Division.

Article 38. The above-mentioned officials shall return the call within one week in person or by leaving cards according to the manner in which the original call was made.

Article 39. When a diplomatic agent desires an audience with the President of the Republic to discuss any matter, he shall make a request in writing through the Ministry of Foreign Affairs, indicating the nature of the matter on which he wishes to confer with the Head of the State.

Article 40. Upon the audience being granted, the person requesting it shall be advised in writing. On the day appointed for the audience, the diplomatic agent shall present himself at the Ministry of Foreign Affairs, whence he shall be taken by the Chief or Assistant Chief of Protocol to the residence of the President of the Republic.

Article 41. Counsellors and Secretaries of Legation, upon their arrival in the country, shall be presented to the Minister of Foreign Affairs and to the Under-Secretary by the chief of mission concerned. They shall be presented to the President of the Republic at the first available opportunity.

Article 42. Military and commercial attachés shall likewise be presented to the Minister of Foreign Affairs, and through him to the Minister of War or the Minister of Finance and the Treasury respectively.

They shall be presented to the President of the Republic at the earliest convenience.

Article 43. At official functions to which the diplomatic corps is invited, its members shall be assigned a special place, and shall be received and accompanied by the Chief and Assistant Chief of Protocol.

Article 44. The diplomatic corps shall be invited to the opening of the ordinary sessions of the Legislative Assembly. A special place shall be reserved for its members, and the Chief and Assistant Chief of Protocol shall conduct them to their seats and sit with them.

Article 45. When the ladies of the diplomatic corps are invited to official functions they shall be seated in the section reserved for the chiefs of missions.

Article 46. Members of the diplomatic corps shall wear uniforms or morning dress for all functions attended by the President of the Republic, unless they are notified to the contrary.

Article 47. If the diplomatic corps desires to offer congratulations to the President of the Republic on the anniversary of national independence, or on any other occasion, the *Doyen* shall request the Ministry of Foreign Affairs to arrange a suitable time therefor. Such audiences may be attended by members of the Cabinet, the Under-Secretary of Foreign Affairs, and the Chief and Assistant Chief of Protocol.

The members of the diplomatic corps shall be placed according to their rank and seniority.

Article 48. If the President of the Republic has arranged to receive the consular corps on the same day, the reception shall take place after that of the diplomatic corps. The Under-Secretary of Foreign Affairs, the Chief of the Consular Division, and the Chief of the Protocol Division, shall accompany the consuls, who shall be placed by alphabetical order of countries, provided that due regard shall be paid to their rank.

Article 49. The Minister and Under-Secretary of Foreign Affairs and the Chief of Protocol shall send official greeting cards to the members of the diplomatic corps on New Year's Day.

Article 50. They shall likewise call on the chief of mission of each country on the occasion of its national day.

Article 51. On the national day of a State which has diplomatic representation in Guatemala, the President of the Republic and the Minister of Foreign Affairs shall send greetings to the government and Head of State concerned.

The national flag shall be flown on that day over the Presidential Palace and the Ministry of Foreign Affairs, upon previous notice being received from the Embassy or Legation concerned.

Article 52. In the absence of diplomatic representation, the Consul concerned may give such notice a reasonable time in advance.

Article 53. The Ministry of Foreign Affairs shall duly advise the diplomatic missions and consulates of the days on which the national flag will be flown, in order that by way of reciprocity the foreign flags may likewise be flown.

Article 54. The Protocol Division shall furnish the Press where appropriate with information concerning the personnel of the diplomatic corps accredited to Guatemala and shall signify any changes where necessary.

. . .

CHAPTER XII

Precedence

Article 72. The diplomatic corps shall occupy a prominent place at functions and celebrations it attends; its members shall be placed according to their rank and seniority, except when special circumstances make this impossible.

Precedence among chiefs of mission of equal rank shall be determined by reference to the date on which they presented their credentials to the Head of the State.

A chargé d'affaires *en pied* shall take precedence over a chargé d'affaires *ad interim*; both classes of chargés d'affaires shall be placed in order of strict seniority.

Counsellors, Secretaries and Attachés shall be placed by reference to the order of precedence of their chief of mission.

Article 89. If two or more officials of the same rank attend an official function, they shall be placed by order of precedence of the Ministries to which they belong or, if this is not possible, by seniority. In case of equality of title, the person senior in age shall take precedence.

Article 91. If a person holds two posts different in rank, he shall be given the place which he is entitled in respect of the higher post.

CHAPTER IV

Privileges and Immunities of Diplomatic Agents

Article 95. Diplomatic agents shall enjoy within the Territory of the Republic all privileges and immunities recognized by international law.

Diplomatic status, in all the categories recognized under article 14 of this Protocol, shall be incompatible with any political activity in the Republic.¹

Article 96. As soon as recognition has been granted to them, diplomatic agents shall be provided by the Ministry of Foreign Affairs through the Protocol Division with an identity card, to enable the State authorities to recognize their diplomatic status.

Article 97. Chiefs of diplomatic missions shall be provided with a car pass to enable the traffic police to facilitate free passage for their cars, with due regard to the traffic regulations.

They shall likewise be provided with special number plates for mission vehicles.

Article 98. The said identity cards and car passes shall be countersigned by the Director-General of Police.

Article 99. If a statement is required from a member of the foreign diplomatic corps resident in Guatemala, the judge shall apply through the appropriate channels to the Ministry of Foreign Affairs, who shall send a note to the foreign diplomat, for the latter to make a statement if he sees fit to do so.

If he does not see fit to make a statement, he may not be compelled to do so.

Article 100. The provisions of the foregoing article shall apply only to the diplomatic corps. Members of a consular corps shall be required to make statements in the same manner as any other person, save as otherwise provided by treaty.

¹ Decree No. 2242 of 24 May 1939.

Article 103. The following shall be exempted from import duties, consular dues and other taxes:

(1) The household goods, baggage, travel equipment, vehicles and other effects for personal and family use brought with them on arrival in the country by Ambassadors, Ministers Plenipotentiary, Ministers Resident, Chargés d'Affaires, Counsellors, Secretaries, Attachés and Chancellors, whether on permanent or extraordinary mission;

(2) Goods imported for the personal use of chiefs of mission, Counsellors, Secretaries, Attachés and Chancellors, or their families, provided the goods have been forwarded to them direct from the place of origin and provided also that the chief of mission concerned requests such exemption through the Ministry of Foreign Affairs;

(3) Coats of arms, flags, furniture and office equipment intended for the use of diplomatic missions accredited to the Government of the Republic of Guatemala;

(4) Baggage and articles for the personal use or the use of the families of delegates or representatives of foreign Governments not having diplomatic or consular status but arriving in Guatemala to carry out a special or extraordinary mission;

(5) Baggage and travel equipment for the personal use or the use of the families of high officials of foreign States arriving in Guatemala otherwise than in an official capacity:

Article 104. For the purposes of the foregoing article, the family of the persons specified therein shall include: the mother, if she is economically dependent upon her son; the wife; minor children; and unmarried daughters who are of age but not economically independent.

Article 105. The exemption provided for in sub-paragraphs 4 and 5 of article 103 shall be granted subject to advance notice from the diplomatic representative concerned.

In the absence of a diplomatic representative, the consular representative may give such notice.

Article 106. The following shall be exempt from customs examination and inspection:

(1) Personal baggage and travelling equipment carried or brought in by chiefs of mission, Counsellors, Secretaries, Attachés and Chancellors, or their families;

(2) The personal baggage and travel equipment which foreign diplomatic agents and their families have with them while in transit or on a visit to the country;

(3) Packages and parcels dispatched direct by foreign governments to their representatives in Guatemala and containing official books or documents, provided they are covered by an official certificate from the competent Ministry of Foreign Affairs;

(4) Baggage and travel equipment for the personal use or the use of the families of the persons mentioned in sub-paragraphs 4 and 5 of article 103.

Article 107. The exemptions specified in the foregoing articles shall not apply to substances the traffic in which is restricted by international agreements.

Article 108. The following shall be exempt from export duties and taxes:

The household goods, baggage, travel equipment, vehicles and other effects belonging to the persons specified in the foregoing articles or their families, whether they are leaving definitely or temporarily.

Article 109. Foreign diplomatic agents are requested to note that, in accordance with Legislative Decree No. 1376 of 27 April 1925 and Government Decree No. 1569 of 1 September 1934, items and objects of archaeological, ethnographic, and historical interest, works of ancient art, items and objects of anthropological and paleontological interest, and original historical documents, civil or ecclesiastical, belong to the State, and that ancient books and printed matter of scientific, historic or literary interest not easily obtainable which it is important to retain in the public or private libraries of Guatemala as part of the national cultural heritage belong to the Nation.

Certain of the articles specified in Legislative Decree No. 1376 may be exported in accordance with the provisions of the said enactment.

Article 110. All the exemptions provided for in this chapter shall be conditional upon the most strict reciprocity.

CHAPTER XV

Facilities granted to Consular representatives

Article 111. The Consular Section shall forward to Consuls-General, Consuls, Vice-Consuls or Consular Agents along with the exequatur a consular identity card countersigned by the Director-General of Police.

Article 112. Consuls-General, Consuls, Vice-Consuls and Consular Agents shall furnish the Ministry of Foreign Affairs with biographical details and a specimen signature with their seal of office on forms provided for the purpose by the Consular Section.

Article 113. Consuls-General *Missi* may request, through the Consular Section of the Ministry of Foreign Affairs, a special number plate for their cars.

Article 114. The following shall be exempt from import duties, consular duties and other taxes:

(1) Used household goods, baggage, and travel equipment for personal or family use brought into the country on arrival by career Consuls-General, Consuls, Vice-Consuls and Consular Agents who are nationals of the State accrediting them and who devote their time solely and exclusively to their official duties;

(2) Baggage and travel equipment for personal use brought into the country by the persons specified in the previous article on returning from a journey abroad;

(3) Furniture and office equipment, coats of arms and flags sent direct by a foreign Government to its main Consular Office in the country.

Article 115. The household goods, baggage and travel equipment for the personal use of the persons specified in the previous article shall not be liable to export duties or taxes.

Article 116. The following shall be exempt from customs examination and inspection: baggage and travel equipment for personal or family use

carried with them on entering or leaving the country by career Consuls-General, Consuls, Vice-Consuls and Consular Agents who are nationals of the country accrediting them and who devote or have devoted their time solely and exclusively to their official duties.

Article 117. In order to obtain exemption from customs examination and inspection as provided in the foregoing article, the interested party shall be required to submit to the Ministry of Foreign Affairs a statement on oath that he is not taking out of the country any of the objects specified in article 109 of these Ceremonial Regulations.

Article 118. For the purposes of this chapter, the family of the officials specified therein shall include: the mother, if she is economically dependent on her son; the wife; minor children; and unmarried daughters who are of age but not economically independent.

Article 119. The above exemptions shall be conditional upon the most strict reciprocity.

(b) LEGISLATIVE DECREE No. 2,164 (PENAL CODE)

INTRODUCTORY TITLE

Article 8. The provisions of the foregoing two articles shall not apply:

1. To persons enjoying immunity under existing rules of international law, who shall, if they commit offences in Guatemalan territory, be delivered to their governments;

(c) GOVERNMENT DECREE No. 551 (CODE OF CRIMINAL PROCEDURE)

CHAPTER I

General provisions

Article 6. Save as otherwise specifically provided by law, or as provided by international law in the case of persons enjoying diplomatic immunity, judges dealing with criminal cases shall comply with the provisions of this Code, irrespective of whether the offender is a citizen or an alien.

CHAPTER V

Statements by witnesses

Article 329. If a statement is required from a member of the diplomatic corps, the judge shall, through the appropriate channels address a note to the Secretary of Foreign Affairs requesting such statement.

If the person concerned refuses to make such statement, he may not be compelled to do so.

Article 330. The provisions of the foregoing article shall not apply to persons with consular rank, and such persons shall, save as otherwise provided by treaty, be required to make statements in the same manner as any other person.

Title V

Entering and searching closed premises; examination of books and papers; intercepting and opening correspondence and telegrams

Article 491. If it is necessary to enter and search the premises used as living quarters or offices by the representative of a foreign State accredited to the Government of the Republic, the judge concerned shall, by a courteous note, request his permission to do so and shall ask for a prompt reply.

If such permission is refused, or if, within twelve hours no reply is given, the judge shall forthwith so inform the President of the Supreme Court of Justice, who in turn shall inform the Executive. Pending a decision by the Executive, the judge shall refrain from entering and searching the premises concerned but shall take such precautionary measures as are appropriate.

. . .

Article 493. The premises used as living quarters or offices by a foreign consul may be entered if advance notice is given and all other legal formalities are observed.

(d) GOVERNMENT DECREE No. 1,781 (ALIENS' ACT)

Title VII

SOLE CHAPTER

Civil and criminal jurisdiction

Article 94. Heads of State and members of their governments, together with the members of their respective families, shall be exempt from the provisions of penal law while on Guatemalan territory.

Article 95. The same exemption shall apply to diplomatic representatives accredited to the Republic, the members of their families who live with them and their employes of foreign nationality.

. . .

Article 112. The provisions of this enactment shall not affect in any way the immunities and guarantees granted to diplomatic and consular representatives under international law or by treaties or conventions to which the government is a party, no any rights which may have been specifically granted by any such treaty to the citizens of a particular nation.

(e) LEGISLATIVE DECREE No. 2,009 (CODE OF CIVIL AND
COMMERCIAL PROCEDURE)

. . .

CHAPTER XI

Procedure for taking statements from witnesses

Article 416. If a statement is required from a member of the foreign diplomatic corps resident in Guatemala, the judge shall communicate through the appropriate channels with the Secretary of Foreign Affairs, who in turn shall address a note to the foreign diplomat requesting him to make such statement, which may, if desired, be made in writing.

If the diplomat concerned refuses to make such statement, he may not be compelled to do so.

Honduras ¹

(a) DIPLOMATIC CEREMONIAL ²

CHAPTER II

Classes of Diplomatic Officers, Precedence, and Equivalent Rank

Article 6. The Government of Honduras recognizes the following classes of diplomatic agents:

1. Papal Nuncio and Ambassador Extraordinary and Plenipotentiary.
2. Papal Internuncio and Envoy Extraordinary and Minister Plenipotentiary.
3. Minister Resident.
4. Minister Counsellor of Embassy.
5. Chargé d'Affaires.
6. Counsellor.
7. First Secretary.
8. Second Secretary.
9. Third Secretary.
10. Attaché.

Article 7. Precedence within each class shall be determined by reference to seniority, in the following manner: that of Nuncios, Ambassadors, Internuncios, Envoys Extraordinary, Ministers Plenipotentiary and Ministers Resident, by reference to the date of presentation of their credentials; that of Chargés d'Affaires, by reference to the date on which their status was recognized; and that of Ministers Counsellors, Counsellors, Secretaries and Attachés by reference to the order of precedence applicable to their respective heads of mission.

Article 8. In any case in which several special missions, appointed to attend official State functions or international congresses to be held in Honduras, are present, such missions shall, by courtesy, take precedence over the resident diplomatic corps at all public ceremonies.

Nevertheless, in the case of a special mission which is sent solely for the purpose of discussing or settling a specific matter, that mission shall at official functions, if the nature of those functions permits, occupy the same place as its country's permanent mission, as forming part of the latter; this rule shall not, however, apply if the special envoy belongs to a higher diplomatic class than the permanent envoy, in which case, and also if the nature of the functions is such as to require individual attendance, the envoy on special mission shall take the place to which he is entitled by virtue of his class and of the provisions of the preceding paragraph.

Article 9. If a Minister of Foreign Affairs comes to Honduras on an official or private visit or to carry out a specific mission, he shall at all times receive precedence over the members of the resident diplomatic corps and over any other envoys on special mission. If several Ministers of Foreign Affairs are present on special mission, precedence among them shall be determined by reference to the date of presentation of their credentials. If several Ministers are present in their private capacity, precedence among them shall be determined by reference to the alphabetical order of the names of their respective countries.

Article 10. The precedence among Secretaries and Attachés of the same mission shall be governed by the order established in article 7.

¹ The texts of enactments reproduced under Honduras have been provided by the Secretary of State for External Relations of Honduras. Translation by the Secretariat of the United Nations.

² Extracts from *Ceremonial diplomático de Honduras*, Tegucigalpa, 1952.

CHAPTER V

Relations between the Diplomatic Corps and the National Authorities

Article 61. A head of mission may, within forty-eight hours after presenting his credentials or instrument of accreditation, call upon or leave his cards with the members of the Cabinet and the Honduran public officials whose names appear on the list which shall be communicated to him by the Protocol Section.

Article 62. The officials concerned shall within one week return the courtesies in the form in which it was paid.

Article 63. If a diplomatic agent wishes to be received in audience by the President of the Republic for the purpose of discussing some matter, he shall apply in writing, through the Department of Foreign Affairs, stating the nature of the business on which he wishes to confer with the Head of State.

Article 64. When the audience has been granted, the applicant shall be so informed in writing and on the day appointed for the audience the diplomatic agent shall call at the Department of Foreign Affairs, whence he shall be conducted to the Presidential residence by the Chief or the Deputy Chief of Protocol.

Article 65. A prominent place shall be reserved for the diplomatic corps at all official ceremonies which it attends, and its members shall be received and accompanied by the Chief and the Deputy Chief of Protocol.

Article 67. Consuls who have matters to discuss with the Department of Foreign Affairs shall deal with the Under-Secretary and, in the case of questions of ordinary protocol, with the chief of the respective section.

. . .

Article 73. The heads of mission shall deal directly with the Secretary for Foreign Affairs, or, in his absence, with the Under-Secretary. If a head of mission is prevented from calling in person upon the Secretary for Foreign Affairs, then the Secretary whom he sends in his stead shall deal with the Under-Secretary or, in the latter's absence, with the Chief of Protocol.

Article 74. If the President of the Republic or the Secretary for Foreign Affairs wishes to confer with a particular diplomatic representative, the invitation shall be transmitted by the Chief of Protocol, who shall agree with the diplomatic representative on a day and hour acceptable to both parties.

Article 75. The weekly audiences granted by the Secretary for Foreign Affairs may be temporarily suspended if he so directs. The chief of Protocol shall advise the doyen of the diplomatic corps of any such suspension and shall, in the same advice, indicate on what date the audiences will be resumed or state that the date will be announced in due course, as the case may be.

At the weekly audiences, the heads of mission shall be received according to the order of their class; and those of equal rank shall be received in accordance with the order of precedence.

Article 76. If a diplomatic envoy wishes to be received in special audience on some day other than those appointed by the Department of Foreign Affairs, he should make an application accordingly through the Chief of Protocol.

Article 77. If a diplomatic envoy gives a reception or banquet in honour of the President of the Republic, he shall communicate to the Department of Foreign Affairs, in good time, the names of the other persons invited.

CHAPTER VIII

Reception of Foreign Officials

Article 91. Foreign diplomatic agents and high officials in transit through Honduras otherwise than on official business may be received in private audience by the Head of the State. In each case the Department of Foreign Affairs shall determine what courtesies are to be extended to them.

CHAPTER IX

Privileges of Diplomatic Agents

Article 95. The members of the diplomatic corps shall enjoy the immunities, prerogatives and privileges recognized by international law, in conformity with the established practice and the laws of the State.

Article 96. For the purpose of the recognition of their diplomatic status by the national authorities, the Department of Foreign Affairs, acting through the Protocol Section, shall issue to diplomatic agents, as soon as they have been accredited, an identity card . . .

Article 97. Diplomatic agents may not be summoned by the courts of justice to give testimony in judicial proceedings. If the testimony of a diplomatic agent is essential in civil or criminal proceedings, the court shall address a suitable communication to him with the necessary insertions so that he may give his testimony in the form of a report or of a sworn statement, as he sees fit. The said communication shall be sent by the body concerned to the Department of Foreign Affairs, which shall transmit it to the diplomatic agent with a covering letter.

The communication shall be returned to the official who despatched it through the same channel.

Article 98. In accordance with the tax laws of the Republic, and subject to strict reciprocity, heads of mission shall enjoy exemption from customs duties in respect of their personal effects and goods for their personal use or consumption and of those of the other officials who are part of the mission. Subject likewise to reciprocity, they shall be accorded exemption from postal, telegraph and telephone charges. They shall enjoy similar exemption, subject to reciprocity, for the purpose of obtaining automobile driving licences and licence plates.

Article 99. If the occasion should arise, the head of mission shall apply in writing to the Department of Foreign Affairs requesting exemption and forwarding the requisite legal documents. The application shall be communicated at once to the Department of Finance which shall instruct the office concerned to furnish the necessary facilities, free of any duties or charges, and the Department of Foreign Affairs shall inform the head of mission of the action taken.

Article 100. The luggage of a diplomatic agent and of his suite shall be exempted from inspection.

Article 101. In order to be exempted from customs duties, goods must be consigned to the head of mission concerned or to the Embassy or Legation. No request for free entry in any other manner shall be granted.

Article 102. The exemptions granted in the preceding articles shall not apply to any substances traffic in which is restricted by international agreements.

Article 103. In general, foreign diplomatic agents shall enjoy in Honduras any other prerogatives, privileges, immunities and exemptions which are enjoyed by Honduran diplomatic agents in their countries.

Article 104. The Consuls General, Consuls, Vice-Consuls and Consular Agents shall enjoy in Honduras the same exemptions as Honduran consular representatives enjoy in their countries.

(b) ACT No. 109 OF 14 MARCH 1906 REGARDING FOREIGN
CONSULAR MISSIONS

CHAPTER I

Foreign consular missions and the conditions governing their admission

Article 1. Foreign consular missions in Honduras are deemed to possess no attributions other than that of representing and protecting the persons, interests and property of their own nationals within the consular district in which they perform their duties. Accordingly, consular officials have no political attributions whatsoever. They are not representatives of the Government by whom they are appointed nor can they be regarded as diplomatic agents for the purposes of international law.

Article 2. A foreign consular official shall perform his duties only within the district to which he has been appointed and in respect of the persons and interests of his own nationals, except as otherwise provided by treaty. His good offices may be employed to the extent permitted under Honduran law.

Article 3. A foreign consul shall not claim for his nationals, either in the performance of his duties or in the employment of his good offices, any treatment other than that to which they are entitled by treaty, or, in the absence of a treaty, by virtue of the ordinary law.

Article 4. In order to secure consideration of his representations, a consul shall submit them to the competent authority, observing Honduran law in all respects.

In the case of denial of justice or of wilful delay in the administration of justice, but not otherwise, a consul may take his complaint, through the proper channels, to the Department of Foreign Affairs.

For the purpose of determining whether there has been denial of justice, or unreasonable delay in its administration, the provisions of article 35 of the Aliens Act shall apply.¹

Article 5. Any State at peace with Honduras may appoint Consuls-General, Consuls, Vice-Consuls and Consular Agents in Honduras even though their appointment is not the subject of a prior convention.

¹ Article 35 of the Aliens Act of 8 February 1906 has been superseded by article 30 of the Act of 4 February 1926, which repealed and replaced the Aliens Act.

Article 6. Every person holding a consular appointment shall reside in the territory of Honduras.

Article 7. The Government may designate certain ports, towns and districts in which it considers it undesirable that consular officials should reside, even though such ports, towns and districts may be open to foreign trade.

Article 8. In any case in which not the residence of consular officials in a place in Honduran territory but their carrying on of trade there is regarded as undesirable, the Government shall make a declaration to that effect.

Any regulations made in virtue of the powers reserved by the Government in the present and the foregoing articles shall apply to the consular officials of all countries.

Article 9. Any consular treaty or convention entered into hereafter shall be incapable of modifying the provisions of the three foregoing articles.

Article 10. A consular official shall not begin to perform his duties or to enjoy the privileges and immunities to which he is entitled unless he has received the exequatur or other equivalent authority of the Government.

Article 11. If a consular official is appointed by the diplomatic agent or by another consular official of his country who is resident in Honduras, then the applications for the necessary authority shall refer to the legislative or other provision which empowers the said agent or official to make the appointment.

Article 12. An application for recognition of a consular appointment shall be accompanied by the commission or credentials embodying the appointment and shall be addressed to the Honduran Government by the Ministry of Foreign Affairs of the accrediting State, either:

- (1) Directly, or through its diplomatic mission or consulate; or
- (2) Through a representative of Honduras abroad.

Article 13. If the person appointed has all the qualifications necessary for performing the duties of a consul, the Government shall signify its approval, by exequatur, if the appointment was made in a commission signed by the Head of State, or by authority of the Secretary for Foreign Affairs, if the appointment was made by the diplomatic mission or by a consul of the country concerned.

The commissions and appointments of consular officials shall be registered in a special book to be kept at the Department of Foreign Affairs.

Article 14. When the exequatur has been issued, in the case of a consular official commissioned by his Head of State, or the necessary authority has been given, in other cases, the diplomatic mission or consular official who applied for the exequatur or authority shall be informed accordingly and the commission shall be returned together with the exequatur or with a notice stating that the authority has been given, as the case may be.

The State Governor, local authorities or harbourmaster concerned, as the case may be, shall also be notified through the appropriate Ministry, in order to ensure that the official capacity of a consular agent is recognized at his place of residence.

Article 15. On entering upon the performance of his duties a consular official shall produce his exequatur or corresponding authority to the local authorities referred to in the foregoing article at the place where he is to per-

form his duties. The said authorities shall examine the document with a view to determining whether:

The consular official is a subject of the State whose Government appointed him;

He has been expressly sent out by the Government and will not carry on any industry or trade whatsoever in Honduras;

He has not been sent out by the Government that appointed him and, being a subject of that State or of another friendly State, he will engage in trade or industry in Honduras;

He is a Honduran citizen who is to act as consul.

A certified copy of the document in which these particulars are set forth shall be sent to the Department of Foreign Affairs.

Article 16. A consular official shall not have the right to communicate directly with Departments of State or with any authorities other than those of his district except through his country's diplomatic mission. If there is no mission, or its seat is not in Honduras, he shall communicate with such authorities through the Consul-General of his country. If there is no Consul-General, but not otherwise, he shall have the right to communicate with the said authorities directly. Nevertheless, a consular official shall in all circumstances have the right to request the protection and assistance of the local authorities of his district.

Notwithstanding the foregoing, a consular official may, in cases which can be satisfactorily shown to be urgent, communicate directly with authorities other than those of his own district, in which event he shall furnish evidence of the circumstances which obliged him to do so and shall notify the Department of Foreign Affairs thereof in the manner prescribed in the foregoing paragraph.

CHAPTER II

The functions of foreign consular missions

Article 17. No official act of a consular official shall be performed through a person holding a power of attorney, though this provision shall not affect representation by an attorney in court.

Article 18. In case of death, absence, sickness or any other impediment, a deputy or substitute for a consular official shall not be appointed except with the express approval of the Honduran Government.

Article 19. A foreign consular official shall have the right to employ his good offices to the full extent necessary for the purpose of safeguarding the legitimate interests of nationals of his country, particularly in commercial matters.

Article 20. He shall have the right to make representations, which shall be in writing, in courteous terms and supported by sufficient evidence, to the competent authority through the proper channels in any case in which duty at a rate higher than that warranted by the customs tariff is charged on merchandise belonging to nationals of his country.

His representations shall be considered as promptly as possible and shall not occasion any delay in the despatch of the merchandise.

Article 21. He may also make representations in like terms and in like manner, similarly supported by evidence, in any case in which a governmental, judicial, military or police authority in his district causes any preju-

dice to a national of his country in breach of the treaties, laws or customs by which the rights of such nationals are safeguarded.

Article 22. In the cases referred to in the two foregoing articles, the complaint shall be lodged with the authority or court competent by law to deal with it. Complaints lodged in any other manner shall not be heard.

Article 23. If a consular official, acting in pursuance of the laws of his own country, authenticates a deed, declaration or other document executed by a national of his country, then the authentication shall have no greater validity or effect than is recognized by Honduran law when the deed, declaration or document is produced to a Honduran authority.

Article 24. Upon the decease of a national of the consul's country who leaves no spouse or heir of full age and legal capacity, the consul may request that the deceased's goods and papers be kept locked and sealed. If such articles are sealed, he shall be entitled to affix the seals of his own office over those of the court.

The seals of the court shall not be removed except in the presence of the consular official who affixed his own seals.

A like procedure shall be observed in any case in which an heir resident abroad authorizes the consul to affix the consular seals, even if there is an heir who is *juris capax* or a surviving spouse in Honduras.

Article 25. A consular official may apply to the competent court for the appointment of a custodian of the property of any national of his country who has been declared under the provisions of the Civil Code incapable of managing his affairs by reason of the fact that he is insane or a deaf-mute unable to make himself understood in writing.

Article 26. Similarly, a consular official may apply for an order to place in custody the property of a national of his country who is missing, or the estate of a national of his country who dies without heirs in Honduras, the order to be in effect pending the transfer of the estate, and he shall also be entitled to propose the appointment of an administrator of property in the circumstances provided for in article 543 of the Civil Code.

Article 27. Provided that he has good and sufficient legal authority to do so, a consular official may claim title to an estate on behalf of a national of his country who is not present in person; nevertheless, he shall not deliver the property of the estate, or the value thereof, until a period of four months has elapsed. The consul shall advertise the said period in order that any person who considers that he has a claim against the property may make good his claim within the period. The court shall not make an order for the transfer of the property unless the consular official has complied with this provision.

Article 28. He shall represent nationals of his country who are not present in Honduras in bankruptcy and insolvency proceedings, in the manner laid down in the relevant legislation.

Article 29. A consular official may act as arbitrator or mediator in disputes between nationals of his country in any case in which he is asked to act. He may also act in a similar capacity for the purpose of settling disputes relating to marine average and disputes between the master and the crew of any vessel having the nationality of his country which relate to recruitment, wages, duty hours, rations or generally to any matter that does not involve a criminal offence or disturb the peace at the port.

In all cases in which he so acts he shall observe strictly the Honduran law relating to arbitration and may, in conformity therewith, apply to the local authorities for assistance in giving effect to his awards.

Article 30. Subject to observance of Honduran law, a consular official may apply to the competent court for his consular district, on his own behalf or on behalf of a third party, for an order appointing a guardian in respect of a minor who is a national of his country and who is in need of protection and has no statutory representative.

Article 31. The statements, protests and reports taken by a consul from the masters and other personnel of vessels having the nationality of his country in cases of damage and other accidents at sea shall be accepted by the competent authority as evidence of damage and other marine hazards and losses.

Article 32. If a vessel having the nationality of his country is wrecked or runs aground on the coast of his consular district, a consular official may take part in the rescue, salvage and other operations carried out, in conformity with the law, to save the cargo and ship's company.

Article 33. A consul shall refrain from using abusive, offensive or threatening language in any communication or other document addressed by him to authorities and officials in his district.

If an official or authority receives a document which does not respect this provision, the official or authority in question shall promptly forward, through the proper channels, a certified copy of the consul's document or letter, together with a detailed report on the history and circumstances of the case, to the Department of Foreign Affairs.

The same procedure shall be observed in any case in which a district authority or official declined, in the belief that a particular request by a consul conflicted with the law, to accede to that request and the consul persists in his request without adducing evidence to show that it is lawful. Nevertheless, the disposal of the business out of which the complaint arose shall in no circumstances be delayed pending the Government's decision. The decision shall be notified to the consul and to the authority or official concerned.

Article 34. A district authority or official shall observe a like degree of civility and courtesy in correspondence and dealings with consular officials. In any case in which an authority or official fails to pay due regard to civility and courtesy in official acts, or the usual courtesy is not observed in communications, a consular official shall address a complaint, through the proper channels, to the Department of Foreign Affairs, which shall examine the complaint in the light of the report of the authority or official mentioned in the complaint and shall decide what action should be taken. The decision shall be notified to the parties concerned.

CHAPTER III

The privileges, immunities and exemptions of foreign consular missions

Article 35. The consular office shall in every case be established in a separate room not used for any other purpose, even if the consul engages in business or acts as honorary consul, and a notice describing its purpose shall be placed over the door. All books, papers and other articles relating to consular business shall be kept in the said room. The records and papers

shall be inviolable and the authorities must not seize them or inform themselves of their contents for any reason or on any pretext whatsoever.

Article 36. Both the consular premises and the residence of the consul shall be inviolate. Nevertheless, the foregoing provision shall not be construed as a recognition of any right on his part to give asylum to persons or property with the object of removing them from the jurisdiction of the authorities.

Article 37. A consular official shall affix on the outside of his house a plate announcing his status, rank, and consular office. For greater security in the event of insurrection, rebellion or invasion or in time of war, he may also display his national flag.

Article 38. Consular officials do not enjoy the privilege of ex-territoriality for any of the purposes which attach to that prerogative under international law.

Article 39. The official documents of a consul and his correspondence with his Government, his country's diplomatic agent, other consuls or authorities are under the protection of international law and shall not be subject to search by the State authorities.

Article 40. The authorities shall be under a duty to protect foreign consuls and to safeguard their freedom to perform their duties.

Article 41. A consul in the first of the categories mentioned in article 15 shall be entitled to the following privileges and immunities:

(1) He shall be exempt from all taxes and levies of a purely personal nature, whether ordinary or special;

(2) He shall be exempt from billeting at all times, even in time of war;

(3) He shall be exempt from service in the Army, civil or national guard or any other armed force, including such forces as are locally organized for the purpose of protecting property or restoring public order;

(4) He shall be exempt from all duties of a representative nature;

(5) A consul's personal effects shall be exempt from all Honduran customs duties and charges. This exemption is subject to reciprocity; hence, a consul appointed from abroad who claims the exemption shall be required to show that a Honduran consul of like rank enjoys or may enjoy a like exemption in his country.

Article 42. Consuls in the other categories shall be entitled to the privileges referred to in the foregoing article with the exception of those mentioned in paragraphs 1 and 5.

Article 43. Any articles imported specifically for use for consular purposes shall be exempt from Honduran customs duties and charges.

Article 44. A consul who engages in business shall be liable for personal taxes of all kinds in the same way as other aliens.

Article 45. With the exception of the privileges for which he qualifies under article 42, a consular official who carries on in Honduras, directly or indirectly, a profession, industry or business of any kind shall be placed, so far as such occupation is concerned, on the same footing as any private person engaged in that occupation in the consular district.

Article 46. A Honduran national who accepts a consular commission from a foreign Government shall have the same rights and duties as those accorded by law to Honduran citizens. Nevertheless, he may be exempted

from representative and other personal offices in the public service if he shows that they are incompatible with his duties as a consul.

Article 47. When a foreign consular official is to testify as a witness in judicial proceedings, he shall be so advised in a courteous communication which shall indicate the place, date and time at which he is to appear to give his evidence.

Article 48. Without prejudice to the functions, immunities and privileges conferred upon him by this Act, a consular official shall be subject to the law and to the authorities of Honduras.

Article 49. A consular official shall not perform any act in his official capacity, even within his own consular district, in furtherance of his private business.

If he is in need of protection in respect of such business, he may apply to the Consul-General, diplomatic agent or Ministry of Foreign Affairs of his country.

Article 50. A consular official, not being entitled to the immunities attaching to diplomatic status, shall be tried in conformity with Honduran law for any criminal offence under the ordinary law committed by him.

Article 51. If a warrant is issued for the arrest of a consular official, he shall before he is removed into custody be escorted to his office (if he was not arrested there) in order that he may do whatever is necessary to put in order, seal and place in safe-keeping the Consulate's records and papers, for which purposes he shall be allowed sufficient time.

It shall be unlawful for any person escorting the accused to tamper with, or acquaint himself with the contents of, the records and papers of the consular office, the said escort having authority only to secure the person of the accused and to facilitate such dispositions as the latter may make with regard to the office and its contents.

Article 52. Like considerations shall apply and a like procedure shall be observed in any case in which a consular official is arrested by order of the competent authority for some serious offence against the criminal law or by reason of some occurrence affecting the public interest which is proved as prescribed by law.

Article 53. If a consular official dies and is not succeeded by another of his nationality, and no substitute or custodian of the Consulate's records is appointed, then the local court shall seal the records and place them in the care of the consular representative of another friendly nation, and inform the Department of Foreign Affairs accordingly through the proper channels. The said Department shall then notify the diplomatic mission or Government of the country to which the deceased official belonged. A consular official of another friendly nation, if possible resident in the same district, and two nationals of the deceased official's country must be present to witness the affixing of the seals. If such persons cannot be found, the affixing of the seals shall be witnessed by two reputable local residents.

When the new consular official takes possession of the records, the seals shall be removed by the same authority and in the presence of the same witnesses as were present at the sealing, if they are in the district.

It shall be unlawful for the persons present at the sealing in any circumstances and for any reason to acquaint themselves with the contents of the consular records, even for the purpose of taking an inventory.

CHAPTER IV

Termination of consular missions and revocation of exequatur

Article 54. If for special reasons the Government declines to issue an exequatur to a particular consular official, it shall so inform the Government that appointed him.

Article 55. If the commission is cancelled by the Government that issued it, the consular mission shall be terminated with effect from the time when notice of such cancellation was received at the Department of Foreign Affairs.

Article 56. In the cases provided for in articles 7 and 8, the exequatur granted to the consular official in question shall not be revoked unless and until the Government concerned has been notified and a reasonable period has elapsed for the cancellation of the appointment which is to be terminated. Nothing in this article shall be taken to impair the effect of the articles which follow.

Article 57. In the cases provided for in articles 50, 51 and 52, the court or other authority which issues the warrant for arrest shall notify the Government accordingly so that the Department of Foreign Affairs may take the necessary steps for the purpose of revoking the exequatur of the consular official who has committed the offence.

Article 58. The Department of Foreign Affairs shall also revoke the exequatur of any consular official who commits any wrongful act in the performance of his duties or whose conduct is improper or incorrect.

Article 59. In any case in which the assertions made in a complaint lodged by a consular official against a Honduran authority are found to be groundless his exequatur may be revoked, if the allegations are of a serious nature.

Nevertheless if the allegations are found to be correct, the state of affairs to which the complaint refers shall be remedied without delay and the consular official who lodged the complaint shall receive satisfaction.

Article 60. The exequatur shall also be revoked in the case of a consular official who is shown to have been a principal or accessory in the smuggling of goods or in any other offence against the public finances.

Article 61. The exequatur shall also be revoked in the case of a consular official who takes part in civil commotions in Honduras, without prejudice to any other liability which he may have incurred under the law.

Article 62. In every case in which the exequatur of a consular official is revoked, an account setting forth the circumstances shall be communicated to his Government through the Department of Foreign Affairs.

Article 63. If a consul whose exequatur is revoked wishes to return to his own country he shall, if possible, be guaranteed liberty to do so, though this provision shall not affect any liability which he has incurred under the law.

CHAPTER V

General provisions

Article 64. The Department of Foreign Affairs shall bring the provisions of this Act to the notice of the Foreign Ministries of all countries with which Honduras maintains friendly relations.

Article 65. A foreign consul accredited to the Government of Honduras but not resident in Honduran territory is hereby granted a period of four months within which he should transfer his residence to Honduras. If he does not transfer his residence to Honduras before the end of this period, his exequatur shall be revoked.

Article 66. A consular official shall not have jurisdiction throughout Honduras unless his accrediting State has appointed him Consul-General.

Any official who does not hold the title of Consul-General and has no definite consular area and who at present acts officially throughout the territory of Honduras is hereby notified that he must obtain that title from his Government before the expiry of a period of four months from the date hereof. If he has not obtained the title by the end of the said period, his jurisdiction shall be deemed to cease at the boundary of the municipality, department or port named in his commission as his residence.

Article 68. Nothing in this Act shall be taken to impair the effect of the provisions of any special consular treaties or conventions which are in force.

Hongrie ¹

a) LOI N^o XVIII DE 1937 CONCERNANT LES RÈGLES DE PROCÉDURE PORTANT SUR L'EXTERRITORIALITÉ ET L'IMMUNITÉ PERSONNELLE

Article 1. Les tribunaux et toutes les autres autorités suspendront d'office la procédure, dans toutes ses phases, voire même en cours d'exécution, et présenteront un rapport aux autorités de surveillance suprême, si l'une des parties en cause est un État étranger ou une personne bénéficiant, en vertu du droit international (accord, pratique ou réciprocité), de l'exterritorialité ou de l'immunité personnelle; la même règle sera appliquée si l'une des parties en cause invoque un tel privilège ou une telle immunité, et qu'il n'apparaît pas de toute évidence qu'elle ne puisse s'en prévaloir.

Les tribunaux et les autres autorités suspendront la procédure aussi dans le cas où leurs autorités de surveillance formulent une invitation y relative.

Article 2. Avant de prendre une mesure ou une résolution à l'égard d'une personne jouissant de l'exterritorialité ou de l'immunité personnelle visées à l'article 1, les tribunaux et les autres autorités présenteront un rapport à leurs autorités de surveillance, même si la personne susmentionnée n'est pas intéressée dans la procédure en tant que partie en cause, mais y participe dans une autre qualité.

Article 3. Le ministre exerçant la surveillance suprême statuera, de concert avec le Ministre des affaires étrangères, sur l'existence des privilèges et immunités mentionnés aux articles 1 et 2, ainsi que sur l'étendue personnelle et objective de ces derniers.

Cette décision sera obligatoire pour les tribunaux et pour toutes les autres autorités saisies.

¹ Le texte français des lois et règlements reproduits dans la section relative à la Hongrie a été fourni par le Ministre des affaires étrangères de la République populaire hongroise.

² *Recueil des lois*, 1937, no. 11, paru le 21 juillet 1937.

Article 4. Dans le cas où l'étendue personnelle et objective de l'immunité revenant aux agents consulaires des États étrangers est déterminée par un accord international ou par une autre loi écrite, les tribunaux ou les autorités saisies ne s'adresseront à l'autorité de surveillance suprême que lorsqu'il y a doute. Dans ce cas, les dispositions de l'article 3 devront être observées.

Article 5. Les bâtiments avec toutes leurs aisances et dépendances en propriété d'un État étranger, utilisés à servir aux buts de la représentation diplomatique de cet État ou bien à servir d'habitation du personnel de cette mission diplomatique, sont, en cas de réciprocité, exempts de toute saisie.

Dans tous les cas où la saisie immobilière est demandée sur un bâtiment en propriété d'un État étranger, les tribunaux et les autres autorités présenteront un rapport à l'autorité de surveillance suprême, en vue d'établir l'existence et l'étendue de l'immunité ainsi que de vérifier la réciprocité; l'autorité de surveillance suprême statuera de concert avec le Ministre des affaires étrangères. Cette décision sera obligatoire pour les tribunaux et pour toutes les autres autorités saisies.

S'il n'apparaît pas de toute évidence que l'exemption mentionnée au premier alinéa du présent article couvre le bâtiment en question, la saisie ne pourra être ordonnée et pratiquée qu'à titre provisoire; jusqu'à la date de la décision de l'autorité suprême mentionnée à l'alinéa 2 du présent article la saisie immobilière ne pourra être pratiquée que pour couvrir la garantie de la créance en question. Si l'exemption est reconnue, les mesures de saisie doivent être abrogées.

Les dispositions précédentes n'affectent pas les autres immunités qui sont dues en général aux bâtiments en question selon le droit international.

Article 6. Dans l'application de la présente loi le terme « autorité de surveillance suprême » signifie, pour ce qui concerne les affaires faisant partie de la compétence d'une autorité administrative, le ministre du ressort duquel relève l'affaire en cause, dans laquelle a été soulevée la question de l'exterritorialité ou de l'immunité personnelle.

Article 7. L'article 31 de la loi XXXIII de 1896 concernant le Code d'instruction criminelle et l'article 9 de la loi I de 1911 concernant le Code de procédure civile sont abrogés. Sont également abrogées les dispositions de toute autre législation contraires à la présente loi.

b) LOI III DE 1951 PORTANT SUR L'INSTRUCTION CRIMINELLE, MODIFIÉE ET RÉDIGÉE COMME TEXTE UNIQUE PAR LA LOI V DE 1954

Article 249. Cette loi n'affecte en rien l'exterritorialité et l'immunité personnelle, ni les règles spéciales de procédure portant sur l'exterritorialité et l'immunité personnelle.

c) LOI III DE 1952 PORTANT SUR LA PROCÉDURE CIVILE, MODIFIÉE ET RÉDIGÉE COMME TEXTE UNIQUE PAR LA LOI VI DE 1954

Article 325. Cette loi n'affecte en rien l'exterritorialité et l'immunité personnelle, ni les règles spéciales de procédure portant sur l'exterritorialité et l'immunité personnelle.

d) DÉCRET N° 32/1955. M.T. DU 8 JUIN 1955 PORTANT SUR LA POURSUITE DES INFRACTIONS

Article 21. L'autorité compétente pour infliger les amendes est tenue de transmettre l'affaire sans délai à son autorité suprême de surveillance, s'il

existe des données qui indiquent que l'infraction a été commise par une personne jouissant de l'exterritorialité ou de l'immunité personnelle.

e) DÉCRET N° 13.400/1948. KORM. DU 7 JANVIER 1949, PORTANT SUR L'IMPÔT SUR LE REVENU GLOBAL

Selon le paragraphe 1 de l'article 2 de ce décret, sont exempts de l'impôt sur le revenu global — en ce qui concerne les revenus provenant de l'étranger — les consuls de carrière des États étrangers ayant obtenu l'*exequatur*, les employés des représentations diplomatiques et des consulats, s'ils sont de nationalité étrangère, ainsi que le personnel de nationalité étrangère des personnes susmentionnées et de leurs membres de famille.

En ce qui concerne les revenus provenant du territoire du pays les personnes de nationalité étrangère, énumérées ci-dessus ne seront exemptes — en vertu du paragraphe 2 de l'article 2 du décret précité — de l'impôt sur le revenu global qu'en tant que l'exemption leur revient en vertu d'un accord international.

f) DÉCRET N° 6470-52/1952. P.M. DU 31 DÉCEMBRE 1952 PORTANT SUR LES TAXES FISCALES

Selon la subdivision a, alinéa 1, article 32 de ce décret, une exemption personnelle des taxes des actes est accordée — en cas de réciprocité — aux représentants diplomatiques des États étrangers accrédités en Hongrie, aux membres des représentations diplomatiques fonctionnant en Hongrie, ainsi qu'aux employés desdites représentations et aux membres de famille des personnes énumérées, vivant dans le ménage commun, s'ils ont la nationalité de l'État du représentant diplomatique en question, et aussi à toutes les personnes qui ont droit à l'exemption en vertu des principes du droit des gens ou des accords internationaux. L'exemption se rapporte aux actes dressés par les personnes énumérées ci-dessus ou par leurs agents, dans la mesure où l'acte porte sur des engagements qui devront être exécutés hors du territoire du pays.

g) DÉCRET N° 8790/1946. M.E. PORTANT SUR LA CONTRIBUTION FONCIÈRE

Selon le paragraphe 3, alinéa 1 de l'article 3 de ce décret, sont constamment exempts de l'impôt foncier — en cas de réciprocité — les bâtiments en propriété d'un État étranger et utilisés comme représentation diplomatique ou bien comme logement du personnel diplomatique.

L'exemption n'est reconnue qu'à la condition que l'État étranger en question accorde aussi, pour sa part, l'exemption en ce qui concerne les bâtiments situés sur son territoire et se trouvant en possession effective de l'État hongrois.

h) DÉCRET N° 10/1955. P.M. DU MINISTRE DES FINANCES ET DU MINISTRE DU COMMERCE EXTÉRIEUR DU 15 JUIN 1955, PORTANT SUR LES INFRACTIONS FISCALES ET DOUANIÈRES

Selon le paragraphe 2 de l'article 2 de ce décret, il est interdit d'engager ou de continuer des poursuites pour infraction contre une personne jouissant de l'exterritorialité ou de l'immunité personnelle. Dans le cas d'infractions commises par de telles personnes un rapport détaillé devra être présenté sans délai au Ministre des finances ou au Ministre du commerce extérieur.

i) DÉCRET 135/1949. KORM. DU 5 JUILLET 1949 PORTANT SUR L'IMPÔT DES VÉHICULES AUTOMOBILES

Article 2. Sont exemptes de l'impôt des véhicules automobiles :

Les voitures automobiles importées pour l'usage des chefs d'État étrangers et de leur suite pendant leur séjour temporaire, les automobiles affectées à l'usage officiel des représentations diplomatiques et des consulats d'État étrangers ainsi qu'à l'usage des chefs et des membres des représentations diplomatiques et de leur famille, s'ils ont la nationalité de l'État représenté et si cet État accorde la réciprocité.

j) EXTRAIT DU DÉCRET DU MINISTRE DU COMMERCE EXTERIEUR N° 1/1956 (III. 17. K.K.M.) PORTANT SUR L'EXÉCUTION DU DÉCRET-LOI N° 16 DE 1954 SUR LE RÉGLEMENT DU DROIT DOUANIER AINSI QUE DU DÉCRET-LOI N° 7 DE 1955 SUR LA MODIFICATION DUDIT DÉCRET-LOI

1. *Le franchissement de la frontière. Routes douanières.*

Article 8, paragraphe 7 du décret. En passant la frontière de la Hongrie les chefs d'État étrangers ainsi que les membres des corps étrangers exerçant les droits de chef d'État ne doivent pas se rendre au bureau de douane pour se soumettre au contrôle douanier.

2. *Présentation de la marchandise.*

Article 11, paragraphe 4 du décret-loi. Il n'est pas exigé de faire passer au contrôle douanier :

a) Les bagages et les véhicules des personnes mentionnées au paragraphe 7 de l'article 8.

Article 10, paragraphe 6 du décret. En cas de réciprocité il n'est pas exigé de faire passer au contrôle douanier les bagages et les véhicules :

a) Des chefs d'État et des membres des corps exerçant les droits de chef d'État étranger, des chefs et des membres des gouvernements étrangers, des présidents des corps législatifs étrangers et des personnes étant à la suite des personnes susmentionnées ;

b) Des représentants diplomatiques des États étrangers et des membres diplomatiques des représentations diplomatiques fonctionnant en Hongrie ;

c) Des consuls des États étrangers et des membres consulaires des consulats fonctionnant en Hongrie ;

d) Des chefs et des membres des délégations gouvernementales se rendant en Hongrie y compris les chefs et les membres des délégations qui arrivent pour participer aux conférences diplomatiques tenues en Hongrie.

Article 10, paragraphe 7 du décret. Les bagages et les véhicules des personnes visées aux alinéas b-d ne jouissent de l'exemption de contrôle douanier qu'au cas où ils seront importés par ces personnes elles-mêmes.

Paragraphe 8. Il n'est pas exigé de faire passer au contrôle douanier les bagages et les véhicules des fonctionnaires des Nations Unies chargés de voyager par — et munis d'une attestation de voyage de la part de — l'Organisation des Nations Unies ainsi que des envoyés experts des Nations Unies s'il sont envoyés par l'Organisation des Nations Unies, même s'ils ne sont pas munis de l'attestation de voyage de l'Organisation des Nations Unies, de même que de toutes les autres personnes bénéficiant d'après le droit international de l'exterritorialité, par exemple les membres et fonctionnaires de la Commission du Danube.

3. *La visite douanière.*

Article 12, paragraphe 2 du décret. Il faut passer outre à l'ouverture des colis munis de scellés diplomatiques ainsi qu'à celle des envois exempts de présentation.

4. *Exemptions et faveurs douanières.*

Article 22, paragraphe 2 du décret-loi. Sous les conditions fixées de concert par le Ministre du commerce extérieur et les autres ministres intéressés sont exempts, en cas de réciprocité, des droits de douane :

a) Les objets destinés à l'usage personnel des chefs et des membres des représentations diplomatiques et des consulats fonctionnant en Hongrie ainsi qu'à l'usage de leurs membres de famille et des personnes appartenant à leur ménage, à condition que les personnes énumérées soient citoyens de l'État mandant ;

b) Les objets destinés à l'usage personnel des chefs d'États étrangers, des membres des gouvernements étrangers, des présidents des corps législatifs étrangers, des membres des délégations gouvernementales étrangères et de leur suite ;

c) Le matériel de bureau et les meubles d'installation importés pour le service de l'office des représentations diplomatiques et des consulats des États étrangers.

Article 21, paragraphe 7 du décret. L'on entend par chefs et membres des représentations diplomatiques ainsi que par ceux des consulats, les membres du corps diplomatique tenus en évidence par le Ministre des affaires étrangères. Seront traités de la même manière les fonctionnaires des Nations Unies chargés de voyager par — et munis d'une attestation de voyage de la part de — l'Organisation des Nations Unies, ainsi que les envoyés experts des Nations Unies s'ils sont envoyés par l'Organisation des Nations Unies, même s'ils ne sont pas munis d'attestation de voyage de l'Organisation des Nations Unies, de même que toutes les autres personnes bénéficiant d'après le droit international de l'exterritorialité, par exemple les membres et fonctionnaires de la Commission du Danube.

Paragraphe 8. Lors de l'application des alinéas a-c du paragraphe 2 de l'article 22 du décret-loi il existe une présomption légale de réciprocité jusqu'à nouvel ordre.

Paragraphe 9. Le chef de la représentation diplomatique ou du consulat intéressé devra attester d'une déclaration munie du sceau de la représentation ou du consulat que les objets importés sont destinés à l'usage personnel des personnes énumérées au paragraphe 7, ainsi qu'à celui de leurs membres de famille ou bien des personnes appartenant à leur ménage, ou que ces objets sont nécessaires à l'installation et au fonctionnement de la représentation diplomatique ou du consulat. Les chefs des représentations diplomatiques pourront attester aussi verbalement la destination des objets importés par eux-mêmes ou délivrés à leur adresse.

Paragraphe 10. Les objets de déménagement ou les objets dépassant la définition de bagage de route ne pourront être exemptés des droits de douane et délivrés aux personnes en fonction dans les représentations diplomatiques des États étrangers, et non visées au paragraphe 7, autrement que par l'autorisation du Ministre du commerce extérieur ; le Ministre du commerce extérieur décidera en vertu de la vérification de la réciprocité attestée par le Ministre des affaires étrangères et le Ministre des finances. Pour obtenir

l'autorisation, il faut, en sus, présenter une attestation de la part de la représentation diplomatique de l'État étranger fonctionnant en Hongrie ainsi que la liste des objets.

Paragraphe 11. Seront également considérées comme matériel de bureau affecté au service de l'office: les voitures de service qui arrivent aux représentations diplomatiques des États étrangers, le combustible et les pièces de rechange nécessaires à leur usage.

Paragraphe 12. Ce n'est qu'avec l'adhésion de la Banque Nationale de Hongrie que l'on peut aliéner à l'intérieur du pays les voitures et divers objets exempts des droits de douane. Pour l'achat de ces biens mobiles l'acheteur doit posséder une autorisation d'achat. Au cas de transfert de ces biens mobiles il faut payer la douane. Cette stipulation doit être inscrite sur le certificat d'exemption de droit de douane.

Paragraphe 13. Il faut, en sus, obtenir l'autorisation donnée de concert par le Ministre du commerce extérieur et les ministres intéressés, pour pouvoir vendre à l'intérieur du pays sans le paiement de la douane des voitures exemptées des droits de douane sous l'interdiction d'aliénation.

k) DÉCRET-LOI N° 8 DE 1950 PORTANT SUPPRESSION DES MANDATS DE CONSUL HONORAIRE

Article 1. A partir de l'entrée en vigueur du présent décret-loi, des consuls honoraires (consuls généraux, consuls, vice-consuls, etc., dans la suite: consuls honoraires) ne peuvent pas être nommés par la République populaire hongroise.

Article 2. Le jour de l'entrée en vigueur du présent décret-loi, les mandats de consul honoraire existants cessent d'être valables.

Article 3. Aucun ressortissant hongrois ne peut accepter de mandat de consul honoraire pour la part d'un État étranger.

India

(a) CODE OF CIVIL PROCEDURE (AMENDMENT) ¹

86. Suits against foreign Rulers, Ambassadors and Envoys.

(1) No Ruler of a foreign State may be sued in any court otherwise competent to try the suit except with the consent of the Central Government certified in writing by a Secretary to that Government:

Provided that a person may, as a tenant of immovable property, sue without such consent as aforesaid a Ruler from whom he holds or claims to hold the property.

(2) Such consent may be given with respect to a specified suit or to several specified suits or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the court in which the Ruler may be sued, but it shall not be given unless it appears to the Central Government that the Ruler:

¹ The text of Section 86 of this Code has been provided by the Minister of External Affairs of the Government of India. In his Note of 29 November 1955 the Minister of External Affairs stated that Section 86 of the Code of Civil Procedure "is the only legal enactment in India on the subject of legal immunities to diplomats."

(a) Has instituted a suit in the court against the person desiring to sue him, or

(b) By himself or another, trades within the local limits of the jurisdiction of the court, or

(c) Is in possession of immovable property situate within those limits and is to be sued with reference to such property or for money charged thereon, or

(d) Has expressly or impliedly waived the privilege accorded to him by this section.

(3) No Ruler of a foreign State shall be arrested under this Code and, except with the consent of the Central Government certified in writing by a Secretary to that Government, no decree shall be executed against the property of any such Ruler.

(4) The preceding provisions of this section shall apply in relation to:

(a) Any Ambassador or Envoy of a foreign State;

(b) Any High Commissioner of a Commonwealth country; and

(c) Any such member of the staff or retinue of the Ruler, Ambassador or Envoy of a foreign State or of the High Commissioner of a Commonwealth country, as the Central Government may, by general or special order, specify in this behalf,

as they apply in relation to the Ruler of a foreign State.

Iraq ¹

(a) LAW NO. 4 OF 1935 CONCERNING DIPLOMATIC PRIVILEGES ²

Article 1. The diplomatic representatives of foreign States and the persons who are regarded by international usage as composing their retinues shall enjoy such immunities from the jurisdiction of the Civil and Criminal Courts and their property and persons shall enjoy such immunities from seizure, detention or arrest at the instance of the Courts or other authorities as are customary according to international usage.

Article 2. The certificate of the Minister of Foreign Affairs shall be conclusive as to whether any named person is among the persons mentioned in Article 1 of this Law and, if so, the extent of the immunities to which he is entitled.

Article 3. If any person claims that he is entitled to any immunity mentioned in Article 1 of this Law, the judicial or other proceedings from which he claims immunity shall be suspended until the certificate of the Minister of Foreign Affairs, referred to in Article 2 above, be obtained.

(b) LAW NO. 26 OF 1949 FOR THE PRIVILEGES OF FOREIGN CONSULS ³

Article 1. The expression "Consul" in this Law shall include Consul-General, Consul, Vice-Consul and student attaché or any persons entrusted by foreign states with consular duties.

¹ The English texts of Laws reproduced under Iraq have been provided by the Minister for Foreign Affairs of Iraq.

² Published in the *Waqayi' al'Iraqiya* No. 1403 of 7 February 1935.

³ *Ibid.*, No. 2750 of 19 June 1949.

Article 2. Unless otherwise provided by the provisions of consular treaties and conventions, the Consul in his non-official duties shall be subject to the jurisdiction of the civil courts in civil, commercial and criminal matters and shall not enjoy any immunity except on the basis of reciprocity and when acting in his official capacity.

Article 3. The Consulate's files and its official documents shall be inviolable and may not be attached, investigated or confiscated, provided that they are kept in a special place at the consulate on which is written the word "Archive". The consulate's postal, telegraphic and telephonic correspondence, whether with its diplomatic missions or with its respective government, shall be free from censorship and delay on the basis of reciprocity.

Article 4. On the basis of reciprocity the Consul shall enjoy exemption from taxes and duties according to the laws, regulations and instructions (of the Government of Iraq).

Article 5. The Honorary Consul shall not enjoy any immunity, privilege or distinction and shall receive the same treatment received by ordinary persons, foreigners or nationals, practicing the same profession.

Article 6. The certificate issued by the Minister for Foreign Affairs to the effect that a person is considered as one of the persons mentioned in Article 1 of this Law, and the extent of immunity he enjoys, shall be final.

Article 7. Regulations may be issued to facilitate the execution of the provisions of this Law.

Ireland

(a) NOTE OF 22 JUNE 1956 RECEIVED FROM THE MINISTER FOR EXTERNAL AFFAIRS OF IRELAND

The Minister for External Affairs . . . has the honour to State that, in accordance with Article 29 (3) of the Constitution of Ireland, the generally recognized principles of international law are recognized as part of the law of Ireland. Accordingly, diplomatic and consular representatives enjoy in Ireland the privileges and immunities to which they are entitled under international law and custom . . .

(b) MEMORANDUM RESPECTING THE PRIVILEGES ACCORDED TO DIPLOMATIC AND CONSULAR REPRESENTATIVES IN IRELAND IN REGARD TO TAXATION, ANNEXED TO THE NOTE OF 22 JUNE 1956 RECEIVED FROM THE MINISTRY FOR EXTERNAL AFFAIRS OF IRELAND

The term *Diplomatic Representatives* includes heads of mission:

Apostolic Nuncio; Ambassador Extraordinary and Plenipotentiary; Envoy Extraordinary and Minister Plenipotentiary; Chargé d'affaires; Chargé d'affaires *ad interim*;

and the staffs of Embassies and Legations in the following categories:

Counsellors; Auditors of Nunciature; Secretaries; Attachés.

The term *Consular Representatives* includes:

Consul-General; Consul; Vice-Consul.

I. DIPLOMATIC REPRESENTATIVES

Customs and Excise Duty

1. Office supplies intended for the use of the diplomatic missions such as stationery, flags, office furniture and equipment, are admitted free of customs duty.

2. The diplomatic representatives and their families are accorded duty-free admission of their luggage and household effects on their first and subsequent arrivals.

3. Subsequent to their arrival in Ireland the diplomatic representatives are permitted to import without the payment of customs duty merchandise of any kind if intended for their personal use or for the use of their families, provided such importations are not prohibited by the laws of Ireland.

4. In the case of goods imported by an agent on behalf of diplomatic representatives it is the practice to allow delivery without payment of duty, the agent being required to furnish to the Revenue Commissioners, with the minimum of delay, an acknowledgment of receipt signed by the diplomatic representative for whom the goods are intended.

5. Delivery of goods from bonded warehouse to the diplomatic representatives is allowed without the payment of customs or excise duty provided that an application is made to the Department of External Affairs by the head of the diplomatic mission concerned (form Dip. 1.).

6. The customs or excise duty on goods delivered to the diplomatic representatives from duty paid stocks may be refunded to the importer or merchant who has paid the duty, provided a repayment claim is furnished to the Revenue Commissioners by the importer or merchant and an application is made on form Dip. 1 to the Department of External Affairs by the head of the diplomatic mission concerned.

Sale of Motor Cars

7. The diplomatic representatives may not normally sell or dispose of a motor car that has been imported free of duty without payment of the duty unless the person to whom the car is assigned is entitled to diplomatic privilege. If, however, such a car is being sold or disposed of to a person not entitled to diplomatic privilege, and at least two years have elapsed from the date of importation, the Department of External Affairs may, on receipt of an application from the head of the diplomatic mission concerned, recommend to the Revenue Commissioners that the duty be waived.

Income Tax

8. The diplomatic representatives are exempt from payment of income tax in respect of their official emoluments and in respect of any other income arising outside Ireland.

Road Tax

9. On condition of reciprocity, exemption from motor car licence duty (road tax) is granted to the diplomatic representatives and to their wives.

Licence Fees

10. The diplomatic representatives and their wives are exempted, on condition of reciprocity in each case, from payment of fees for the following licences:

- (a) Motor driving licence;
- (b) Fire arms licence;
- (c) Wireless licence;
- (d) Dog licence.

Stamp Duty

11. On condition of reciprocity, exemption is granted from payment of stamp duty on leases or letting agreements drawn in favour of the diplomatic representatives or their governments, and of stamp duty (at present 25%) on transfers of property in the names of foreign governments for the use of their diplomatic mission.

Local Rates

12. On condition of reciprocity in each case, the Minister for Finance will discharge from public funds the "non-beneficial" portion of the local authority's rates for which the diplomatic representatives or their governments are directly liable in respect of the premises (a) owned or (b) leased by them as the seat of the mission or as the private residences of the diplomatic representatives. The "non-beneficial" portion includes, for example, charges in the rates under such headings as Public Assistance, Mental Hospitals, Housing, Unemployment Assistance, Port and Docks, Libraries, Markets and Vocational Education.

II. CONSULAR REPRESENTATIVES

13. Office supplies intended for the use of the consular missions or offices such as stationery, flags, office furniture and equipment, are admitted free of customs duty.

14. In the absence of special treaty provisions or special reciprocal agreements, the consular representatives *de carrière* and their wives are accorded, on condition of reciprocity, the privileges mentioned above in paragraphs 2, 3, 4, 5, 6, 7, 8, 9 and 10(a).

15. Honorary Consuls do not enjoy any special privileges in Ireland.

III. CHANCELLERY STAFF

16. All members of the chancellery staffs of the diplomatic missions are accorded duty-free admission of their luggage and household effects on their first arrival.

17. On condition of reciprocity, and provided he is of the same nationality as the mission, the head of the chancellery or chief clerk of a diplomatic mission is accorded duty-free admission of a motor car, as well as exemption from road tax and driving licence fee.

18. Chauffeurs of the heads of diplomatic missions are accorded free driving licences.

(c) CONSULAR CONVENTIONS ACT, 1954. (AN ACT TO MAKE PROVISION FOR GRANTING CERTAIN CONSULAR POWERS, PRIVILEGES AND IMMUNITIES TO COUNTRIES WITH WHICH CONSULAR CONVENTIONS ARE IN FORCE AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.)¹

1. — In this Act —
 "Archives" includes official correspondence, documents and papers (including official pouches containing them), books, records, cash, stamps,

¹ Text of Act provided by the Minister for External Affairs of Ireland.

seals, filing cabinets, safes, and other office paraphernalia held or used for the official purposes of a consular officer;

“Consular convention country” means a country between which and the State a consular convention is in force dealing with some or all of the matters for which provision is made by this Act;

“Consular employee” means any person employed at a consulate for the performance of executive, administrative, clerical, technical, or professional duties, or as consular guard, messenger or driver of a vehicle whose name has been communicated to the Minister, but does not include any person employed on domestic duties;

“Consular officer” means a consul-general, consul, vice-consul or other official of a consular convention country who is granted an exequatur or provisional or other authorisation, for the performance of consular functions, by the President or the Minister;

“Consulate” means any building or part of a building which is exclusively occupied for the purposes of the official business of a consular officer;

“The Minister” means the Minister for External Affairs;

“National” includes subject or citizen.

2. — (1) Sections 3 to 11 shall not apply in respect of any country save to such extent as they are so applied by order under this section for the time being in force.

(2) Whenever the Government are satisfied that, in a consular convention country, powers, privileges and immunities similar to those conferred by any of the provisions of sections 3 to 11 are conceded in respect of the State, the Government may by order apply all or any of these provisions in respect of that country.

(3) The Government may by order revoke an order under subsection (2).

(4) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling such order is passed by either House within the next twenty-one days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

3. — (1) Where —

(a) A national of a consular convention country, not resident in the State, is named as executor of a will under which property situate in the State is disposed of or is a person to whom a grant of administration to an estate in the State may be made, and

(b) No application for a grant of representation has been made by a person authorised to act for the national,

the Court may, on the application of a consular officer of that country, make a grant of representation to the consular officer as if he were so authorised.

(2) A grant of administration made by virtue of this section may be made to the consular officer by his official title, and to his successors in office; and where a grant is so made, the office of administrator, and all the estate, rights, duties and liabilities of the administrator (including liabilities under the administration bond) shall be vested in and imposed on the person for the time being holding the office, and no fresh grant shall be required by reason only of the death or vacation of office of the person to whom the grant was made or in whom it is so vested.

(3) Sureties shall not be required to an administration bond given by a consular officer upon the issue of a grant of administration under this section.

(4) Without prejudice to the generality of its powers, the Court may, if it thinks fit, postpone the making of a grant of administration by virtue of this section for such time as it thinks necessary to enable the national to be informed of the proposed grant and to decide whether he desires to be represented otherwise than by the consular officer.

(5) This section shall not affect any limitation contained in the grant or any power of the Court to revoke the grant.

4. — (1) Where a national of a consular convention country, not resident in the State, is —

(a) Entitled to any property out of the estate of a deceased person, or

(b) Entitled to any property vesting in possession, or becoming due on the death of any person,

a consular officer of that country may receive and give a valid discharge for such property as if he were authorised to do so by the national.

(2) No person shall be authorised or required by this section to pay or deliver any money or property to a consular officer if it is within his knowledge that any other person in the State has been expressly authorised to receive that money or property on behalf of the national.

5. — Notwithstanding any other provision of this Act or any rule of law conferring immunity or privilege in respect of the official acts or archives of a consular officer, a consular officer shall not be entitled to any immunity or privilege in respect of any act done by virtue of powers conferred on him by or under section 3 or 4 or in respect of any document for the time being in his possession relating thereto.

6. — (1) Subject to this section, a consulate shall not be entered by a member of the Garda Síochána or other person acting in the execution of any warrant or other legal process or in the exercise of any other power conferred by law, except with the consent of the consular officer in charge or, if that consent is withheld or cannot be obtained, with the consent of the Minister.

(2) This section does not apply to an entry effected by —

(a) A member of the Garda Síochána having reasonable cause to believe that a crime involving violence has been or is being or is about to be committed in the premises;

(b) A person entitled to enter by virtue of any easement, contract or other private right;

(c) A person entitled under section 9 of the Fire Brigades Act, 1940 (No. 7 of 1940), to enter premises for the purpose of extinguishing a fire.

(3) This section does not apply to a consulate which for the time being is in the charge of a consular officer who is a citizen of Ireland or is not a national of the country of which he is consular officer.

7. — (1) A consular officer shall not be liable, in any proceedings, civil or criminal, in respect of acts performed by him in his official capacity, which fall within the functions of a consular officer in international law, unless his government requests or assents to the proceedings.

(2) A consular employee shall not be liable in any proceedings, civil or criminal, in respect of acts performed by him within the scope of his employment and in the course of his official duties in so far as those duties are

within the functions of a consular officer in international law, unless his government requests or assents to the proceedings.

(3) A consular officer who is a national of the country of which he is a consular officer and not a citizen of Ireland and not engaged in private occupation for gain in the State shall be exempt from arrest or prosecution except when charged with the commission of a crime punishable by imprisonment for a period of one year or more or by penal servitude.

(4) This section does not exempt a consular officer or consular employee from liability in a civil action arising out of a contract concluded by him in which he did not expressly contract as agent for his government and in which the other party looked to him personally for performance.

8. — The archives kept at a consulate and official correspondence sent to or by a consular officer shall be inviolable and no person shall examine or detain them without the consent of the consular officer.

9. — A consular officer or consular employee shall be entitled to refuse —

- (a) To produce in court any of his archives, or
- (b) To give evidence with respect to anything contained in his archives or any other matter falling within the scope of his official duties, or
- (c) To give expert evidence respecting the laws of the country of which he is the consular officer or consular employee.

10. — Stamp duty shall not be chargeable on receipts issued by a consular officer in respect of the payment of fees for consular services rendered by him.

11. — Notwithstanding section 3 of the Merchant Shipping Act, 1947 (No. 46 of 1947), the flag of a consular convention country and its consular flag may be hoisted on an Irish ship employed in the exercise of consular duties by a consular officer.

12. — (1) Where it appears to the Minister for Industry and Commerce that any person to whom any money or other property of a deceased seaman may be paid or delivered under paragraph (b) of subsection (1) of section 176 of the Merchant Shipping Act, 1894 (which relates to the disposal of property not exceeding one hundred pounds in value) is resident in a consular convention country, he may pay or deliver the money or property to a consular officer of that country on behalf of that person and the provisions of that section shall have effect accordingly.

(2) The powers of a consular officer under subsection (2) of section 521 of the Merchant Shipping Act, 1894 (which enables a consular officer in certain circumstances to act as the agent of the owner for the purposes of the custody and disposal of articles belonging to or forming part of a foreign ship wrecked on or near the coasts of Ireland) shall extend to the custody and disposal of the wrecked ship itself as well as to the custody and disposal of such articles as aforesaid.

13. — The privileges and immunities conferred on consular officers under this Act are without prejudice to any privilege or immunity which they may enjoy by law or custom.

14. — Section 4 of the Domicile Act, 1861, is hereby repealed.

Israel

- (a) SURVEY OF THE LAW AND PRACTICE OF ISRAEL IN THE MATTER OF DIPLOMATIC AND CONSULAR INTERCOURSE AND IMMUNITIES, ANNEXED TO THE NOTE OF 2 OCTOBER 1956 RECEIVED FROM THE PERMANENT MISSION OF ISRAEL TO THE UNITED NATIONS

INTRODUCTORY

1. In previous communications, notably in the memorandum of 11 March 1951 concerning the conclusion of treaties (*U.N. Legislative Series, Laws and Practices concerning the Conclusion of Treaties*, p. 71) and in the memorandum of 21 March 1956 concerning the provisional articles on the régime of the High Seas and on the territorial seas (A/CN.4/99/Add.1 at pp. 12 ff.¹) information was contained regarding the general nature of the Israel legal system, and regarding the incorporation in it of the law previously in force in Palestine. Those remarks apply, generally speaking, whenever there exists no Israel statute law governing a given topic. In the matter of diplomatic and consular intercourse and immunities there is a considerable amount of legislative detail on individual aspects, but no comprehensive Israel legislation on the topic of diplomatic and consular immunity as a whole, and for that reason it may be said that general questions will be resolved either administratively or by what the courts might decide in a given case to be the applicable rule of international law; and in either situation it may be assumed that the authorities and the courts will find high persuasive authority in the judicial precedents of England and other common law countries as well as in general diplomatic practice. Here it may be said parenthetically that, broadly speaking, the Israel courts have adopted, on the question of the relations between public international law and the domestic law of Israel, an attitude similar to that developed in the courts of the United Kingdom. This question has been discussed in several cases dealing with various topics of public international law. One of these cases concerns the whole question of diplomatic and consular intercourse and immunities and reference will be made to it in the course of this paper (that is to say a series of decisions rendered by the District Court of Jerusalem in the case of *Shababo v Heylen and others*).²

2. A significant feature of the law of the former mandated territory of Palestine was that while it made provision for sundry details concerning consular powers, privileges and immunities, it was completely silent on the question of diplomatic powers; privileges and immunities. Here was reflec-

¹ Reproduced in Yearbook of the International Law Commission 1956, vol. II, p. 53 (United Nations Publications, Sales No.: 1956. V. 3, Vol. II).

² Three decisions were rendered in this case. The preliminary decision of 30 March 1953 (reported in 8 *Pesakim Mehoziim* (1953) p. 455); the decision on the merits of 13 July 1953 (unreported); and the decision on the execution of the judgment on the merits, rendered by the trial judge sitting as Chief Execution Officer on 15 October 1953 (reported in 9 *Pesakim Mehoziim* (1954) p. 502).

The general question of the relation between international law and municipal law was discussed in an article by Rosenne in *Hapraklit*, Volume 7 (1949/50) p. 258 and in a memorandum of May 1953 submitted to UNESCO for the use of its special rapporteur who was then examining the question.

ted the influence of the Mandate, Article 12 of which entrusted the mandatory with the control of the foreign relations of Palestine and the right to issue exequaturs to consuls appointed by foreign powers. He was also entitled to afford diplomatic and consular protection to citizens of Palestine when residing outside its territorial limits. There were naturally no mutual diplomatic relations between the territory of Palestine and foreign countries and no diplomatic corps resident in Palestine, such diplomatic business as there was being transacted in London. On the other hand, there were a few consular representatives of foreign countries in Palestine, and consular business originating abroad, of Palestine, was handled (except in the countries of the British Commonwealth) by the British consular officials. It was recently held by the Israel Supreme Court in *Gorali v Diskin*, decided on 30 April 1954, that, subject to the provisions of any law in Israel, Israel consular officials abroad now have the powers formerly exercisable in relation to Palestine by British consular officials even where those powers originated not in a provision of the law of Palestine but in a provision of the law of Great Britain (Reports: 8 Piskei-Din (1954) p. 521; 15 Pesakim Elyonim (1954) p. 280); and a year before, in *Landau v Borwin*, decided on 21 January 1953, the Court applied the presumption of the identity of foreign law with domestic law, in the absence of proof to the contrary, to permit an Israel consul abroad to perform an action which foreign consuls in Israel are by the law of Israel legally empowered to perform (Reports: 7 Piskei-Din (1953) p. 35; 12 Pesakim Elyonim (1953) p. 35).

These two cases demonstrate, on the one hand, the element of uncertainty which necessarily prevails in this sphere and on the other the broad sweep of the judicial horizon when faced with concrete cases for which there exists no legislative stipulation and no immediate and binding judicial precedent. In fact, these cases also demonstrate an inevitable tendency, particularly in so far as concerns the powers of Israel diplomatic and consular representatives, to build up the law, even as regards diplomatic powers, on the basis of consular practice. On the other hand this is essentially a domestic aspect of the problem and so far this tendency has not made itself felt in what might be termed the international aspect.

3. The legislator of Palestine was, therefore, in the nature of things, not faced with the problem of diplomatic privileges or immunities, and concentrated his attention on the position of consuls. This is well illustrated by the provision, appearing in the Extradition Ordinance as originally enacted in 1926 (it has since been repealed), by which the *diplomatic* representative of foreign state was defined as *including* any person recognized by the High Commissioner as a Consul-General, Consul or Vice-Consul. This definition itself was presumably copied from sect. 7 of the Extradition Act of 1873. At the same time it is interesting to note that in face of certain practical exigencies, some aspects of the concept of diplomatic status and the law governing it may have been indirectly introduced into the domestic law: at least it may be said that the conception of diplomatic privileges and immunities has made an oblique appearance. On 14 June 1947 the Government of Palestine enacted the UN Immunities and Privileges Ordinance, 1947,¹ which referred, in various places, to the like immunities and privi-

¹ See Palestine Gazette No. 1588 of 14 June 1947, Supplement No. 1 p. 164; the text is also reproduced in the *Handbook on the Legal Status Privileges and*

leges as in the United Kingdom are accorded to an envoy of a foreign sovereign power accredited to His Majesty, but without specifying any detail. It is well known that in the United Kingdom the greater part of these matters is governed by the common law incorporating international law.

For this reason mandatory legislation, with the isolated exception of the Extradition Ordinance already quoted, refers exclusively to foreign consuls. On the other hand, new legislation passed since the independence of Israel refers, where appropriate, both to foreign diplomatic representatives and to foreign consular representatives. Not all the mandatory legislation which is still in force has been amended, but where it is appropriate today to read legislation applying in terms to foreign consular representatives as applying also to foreign diplomatic representatives, the Government of Israel is prepared to do so on the footing that the change is one rendered necessary by the establishment of the State of Israel and its authorities (Law and Administration Ordinance, 5708-1948, sect. 11) and is one which may be made even without legislation.¹

DIPLOMATIC AND CONSULAR INTERCOURSE

4. Under the law in force in Israel the question of the establishment of diplomatic and consular relations with foreign Powers, by virtue of its being an aspect of the conduct of foreign affairs, rests within the exclusive competence of the Government and is subject only to the general parliamentary control as is described particularly in para. 7 of the memorandum of 11 March 1951 previously cited. In one respect, however, parliamentary control exists in more direct form, by virtue of the budgetary powers of the Knesset. The financial data submitted by the Government to the Knesset include particulars of existing Israel diplomatic and consular missions and those planned for the forthcoming financial year and the implementation of those planned (and in theory the maintenance of those existing) is naturally dependent upon the provision of funds.

5. In the short period of Israel's independent existence there is perhaps little practice which is of major significance to the international law of diplomatic intercourse. The most important feature is the appearance, frequently on the basis of reciprocity, of special missions (variously styled) during the early period of the existence of the State. Before certain foreign Powers had extended to Israel *de jure* or full recognition, and occasionally even before they had extended *de facto* recognition, special missions had been

(continued)

Immunities of the UN, Doc. ST/LEG/2 p. 191. This Ordinance is in force in Israel.

It is understood that it is not required in this paper to discuss the question of privileges and immunities to the UN and related matters and nothing in this paper therefore *ipso facto* applies in that context.

¹ In *Stampher v. Attorney-General*, decided by the Supreme Court on 4 January 1956, it was held that by virtue of Israel's being a sovereign independent State, international law is automatically part of the law of the land with the consequence that even in interpreting domestic criminal law, reference may be had to the applicable rules of international law. (Reports: 10 Piskei-Din (1956) p. 5; 21 Pesakim Elyonim (1956) p. 298.) It is believed that this doctrine is fully applicable to the case of diplomatic immunities for which a clear basis exists in international law.

established (not always on the basis of full reciprocity), occasionally being accredited to the Head of the State and occasionally to the Foreign Minister.

6. From the formal point of view attention may be drawn to section 6 of the Transition Law, 5709/1949, by which the President of the State appoints, upon the recommendation of the competent Minister, the diplomatic representatives of the State, receives diplomatic representatives of foreign States sent to Israel, and confirms the appointment of consuls to Israel of foreign Powers.¹

7. A statutory definition of Israel diplomatic and consular representatives is contained in the Evidence Ordinance (Amendment) Law, 5711-1951, as follows:

“Diplomatic representative” means an ambassador, minister, chargé d'affaires, plenipotentiary, counsellor of legation, or secretary of legation exercising his functions in a foreign State.

“Consular representative” means a consul-general, consul, vice-consul, acting consul-general, acting-consul or consular agent exercising his functions in a foreign State. Viewed as generic terms, these definitions may also be applied to foreign diplomatic or consular representatives exercising their functions in Israel. However, in that case the formal status of diplomat or consul requires recognition as such by the Israel Government, a stipulation imposed both by the common law and, in many instances, by statute (as will shortly be seen). The result is that for the purposes of the Israel domestic law, an Israel official abroad may have diplomatic or consular status, with attendant powers and competences conferred by the law of Israel, even if he does not formally enjoy that status in the eyes of the foreign country in which he is serving.

8. Concerning the general question of consular intercourse several practical problems have arisen, and they are recorded here:

(a) In the initial period of the existence of the State and as a matter of courtesy and comity, consular representatives in possession of an exequatur issued by the Mandatory Government were recognized in their consular status on a *de facto* basis. The question of their status in law, during this period, did not arise for decision in any court. One general exception was made to this practice and that concerned consuls, in possession of an exequatur issued by the Mandatory authorities, of certain States which had, before the establishment of Israel, ceased to exist *de facto* during or as a result of World War II. It was felt that the Government was not called upon to enter into the delicate political and legal questions of recognition posed thereby and the consuls of those States were informed that their consular status could not be recognized on any basis in Israel.

(b) The Government of Israel has acquiesced in the presence within its territory of persons styling themselves consuls, being in possession of valid consular patents, sent by States — they are very few in number — which have not recognized Israel and which do not maintain formal diplomatic or consular relations with her. These consuls carry on their activities without any exequatur. They are normally accorded the like administra-

¹ For texts of the respective documents see Annexes I to IV [these Annexes are not reproduced in this collection]. The competent minister for these matters is naturally the Minister for Foreign Affairs. See Decision of the Government published in Reshumot, Yalkut haPirsumim No. 13 of 3 May 1949 p. 248.

tive privileges and immunities as are accorded to consuls who have been granted an exequatur. However, the legal status of these individuals has not been passed upon by the Courts and, having regard to the decision in the *Shababo* case, it cannot be stated with any certainty that their jurisdictional immunity would be upheld in a case involving a private litigant.

(c) Somewhat connected is the position of the consular corps in Jerusalem in so far as concerns the consular representatives of States which for political reasons have refrained from endorsing the viewpoint of the Government of Israel as regards Jewish Jerusalem. These consular representatives are furnished by their governments with an accreditation addressed to the District Commissioner of Jerusalem (an official placed under jurisdiction of the Minister of Interior). They do not apply for the grant of an exequatur and are not issued with one. In the *Shababo* case the claim for damages was brought by a widow of a man who had been knocked down by a motor vehicle belonging to a consul general of this category and driven by an official of the consular representative. The action was brought against the consul general, the consulate general, and the driver himself. *Inter alia* diplomatic immunity (but not consular immunity) was pleaded, after conditional appearance had been entered, on behalf of the three defendants. The claim was dismissed as regards the first and third defendants on the ground that it did not appear that the Israel Government had accepted those defendants as the diplomatic representatives of their States, and as regards the second defendant on the ground that diplomatic immunity can only be claimed by a physical person.¹ Suit was later dismissed however against the first and second defendants on the basis of the rule against impleading a foreign sovereign State or one of its departments and judgment was entered against the third defendant only. But it was not executed, and the question was finally settled through the diplomatic channel. It will be observed that no question of consular immunity was raised in this phase of the case. In the execution phase of this case the judge did not consider the question of the legal consequences of the absence of an exequatur or of any request for one, and based his decision on the more general question of the limits of the inviolability of consular premises.

9. It was laid down by the Jerusalem District Court in the *Shababo* case that in order to establish the existence of diplomatic immunity the person claiming the immunity must prove two things, that he was sent with the knowledge of the receiving State and that the receiving State has recognized or accepted or received him as such. The Court also went on to say that it was immaterial how the fact of the acceptance as such of the individual was made manifest. It implied that as for the diplomatic representatives received by the President of the State the diplomatic status, and hence the personal immunities, existed as from the moment of reception by the President; and as for the subordinate members of the diplomatic missions, who are not received by the President, their diplomatic status, and hence their personal immunity, exists from the moment upon which the Foreign Minister recognizes the diplomatic status of the individual in question. That case also described the method whereby the recognition of the status of the subordinate members of the Mission is sought and granted. The diplomatic mission submits to the Foreign Ministry a list of the individuals for whom

¹ The Court therefore did not find it necessary to consider whether a consulate general possesses legal personality.

it is claiming diplomatic status. That list itself has no legal effect, until the Ministry for Foreign Affairs accepts the inclusion of the names on its register, and when that has been done it will be in a position whenever necessary to certify to the diplomatic status of the individual concerned. In practice the same procedure is also valid with regard to the consular status of the subordinate members of the staffs of consular missions. The consular status of the head of the consular mission is, of course, evidenced by the *exequatur*.¹

10. In this connexion it is observed that no statutory requirement exists for the official publication of the diplomatic or consular lists and it is not customary to publish such a list in the official gazette. On the other hand, the fact of the grant of an *exequatur* to a named individual is officially published. There is quite an extensive fluctuation in the composition of the subordinate diplomatic and consular staffs and it is not felt that publication of the lists would serve any practical purposes. In a concrete case it would always be necessary to make enquiry of the Foreign Ministry regarding the status of the individual concerned, since it would be a matter of considerable difficulty to keep the published list permanently up-to-date.²

11. The Government of Israel is party to no international agreement regulating any detail of the question of diplomatic or consular intercourse. In each case the establishment of such intercourse is the consequence of understandings reached on the political level, and within the framework of the domestic law instances of privileges and immunities are usually regulated in the normal way on the basis of reciprocity, or where this is impossible for reasons of domestic legislation, by the closest approximation thereto. In a few agreements provision has been made for extending the categories of persons entitled to diplomatic privileges and immunities in all or in part. For example, in the General Agreement for Technical Co-operation of 26 February 1951 (137 United Nations Treaty Series p. 57) and in the Agreement for Technical Co-operation Programme of 9 May 1952 (registered Number 2309) with the Government of United States of America it was agreed that all employees of the United States of America assigned to duties in Israel in connexion with the co-operative technical assistance programme and projects as well as members of their families would be exempt from all Israel income and social security taxes upon their income or upon their personal property intended for their own use, and also would enjoy similar customs privileges as are accorded to diplomatic personnel of the United States Embassy in Israel.

12. Protection is given by section 77 of the Criminal Code Ordinance, 1936, to the dignity of foreign ambassadors or other dignitaries of foreign states. Herewith the text of that section:

¹ Some difficulties are occasionally experienced, in Israel and abroad, because of the practice of furnishing a member of the diplomatic staff with a consular patent. In such circumstances the Israel Government tends to regard the diplomatic immunity as absorbing the narrower consular immunity, except where circumstances make it appropriate to differentiate between the two.

² In accordance with what is the common practice in England and other countries a certificate of this character by the Foreign Minister and addressed to the court will be conclusive as to the facts set forth in it. On the other hand, as indeed occurred in the *Shababo* case, the courts are at liberty to interpret the certificate, if perchance it is found temporizing, and it is their duty to draw the necessary conclusions in law from the facts stated in the certificate.

77. Any person who without such justification or excuse as would be sufficient in the case of the defamation of a private person publishes anything intended to be read, or any sign or visible representation, tending to degrade, revile or expose to hatred or contempt any prince, ruler, potentate, amabassador or other dignitary of any state or territory other than Palestine, is guilty of a misdemeanour and is liable to a fine of one hundred pounds. And if such thing, sign or representation is likely or intended to disturb peace and friendship between Palestine and such other state or territory, such person is guilty of a misdemeanour.

This provision is rarely invoked and particularly no instance is known of criminal proceedings under this section which related to the defamation of diplomatic or consular personnel.

GENERAL PRIVILEGES AND IMMUNITIES

13. The details of diplomatic and consular privileges and immunities, where not formally embodied in legislative texts, are found in administrative circulars issued either by the Protocol Division of the Foreign Ministry, if directed to the diplomatic corps itself, or in administration circulars directed to organs and authorities of the Israel Government. These privileges and immunities are found to fall into two broad categories — those which relate solely to the relations between the Government and foreign diplomatic or foreign consular representatives, and those which relate to the relations between the diplomatic or consular representatives and members of the public. The first category are essentially of an administrative character and the second, of which the most important manifestation is the immunity from legal proceedings, is governed exclusively by law. This distinction is of importance for it enables the government to adopt a flexible attitude as regards privileges and immunities falling within the first category, although its freedom of action is restricted as regards privileges and immunities of the second category, since the ultimate decision always rests with the Court. Therefore while it might be said that on principle persons enjoying a quasi-diplomatic status as mentioned in paragraph 11 above, as well as those enjoying a quasi-consular status as mentioned in paragraph 8 above, will normally be granted privileges and immunities falling within the administrative category (if the government is tacitly acquiescing to their presence in Israel), it does not follow that they will necessarily have their entitlement to privileges and immunities of a legal character recognized by the Courts.

NON-FISCAL PRIVILEGES AND IMMUNITIES APPLIED EQUALLY TO DIPLOMATIC AND CONSULAR REPRESENTATIVES

14. *Communications*

During the highly critical periods of hostilities of 1948/9 the Government asserted its right to impose censorship on diplomatic correspondence proceeding in and out of the country. This applied to diplomatic mails as well as to radio and telephone communications. In this connexion, it was learnt early in 1949 that some diplomatic and consular missions, which had apparatus for radio transmission on their premises, were permitting journalists and other unauthorized persons to transmit abroad non-official communications. The attention of all diplomatic and consular missions was

drawn to the fact that this meant the circumvention of the military censorship, and foreign diplomatic and consular missions maintaining their own transmission stations were requested to exercise meticulous care that such installations should only be used for the despatch of official messages of the mission.¹

Road Transport

In the matter of road transport, motor vehicles belonging to diplomatic or consular missions are given special registration numbers. No fee is charged in respect to the licensing or registration of such vehicles, or for the driving licence itself, always on condition that the vehicle or the individual concerned is not engaged in any other profession or business.² The question of third party insurance and the position of insurance companies, in view of the jurisdictional immunity of diplomatic personnel, is at present under consideration. Special arrangements have been made regarding the reporting on road accidents in which diplomatic or consular personnel are involved.³

Entry into and departure from Israel

The provisions of the law regarding visa requirements for entry and residence in Israel do not apply to any person who comes to Israel by virtue of a diplomatic or service visa.⁴ The grant of diplomatic or service visas is within the jurisdiction of the Ministry for Foreign Affairs.

Similarly the requirement for exit visas does not apply to persons enjoying diplomatic immunity or persons belonging to the regular consular service of a foreign State.⁵

Archives

During the military hostilities which occurred in connexion with the termination of the Mandate and the establishment of the State of Israel, the Jewish national authorities (prior to the termination of the Mandate) and the Government of Israel thereafter, exercised scrupulous care to avoid violating the archives of the consular missions of certain Arab states in Israel controlled territory which had been abandoned by their respective missions. In 1948, for example, it was agreed that one of the European consulates in Jerusalem should take into custody the archives of the Egyptian and Iraqi consulates in that city despite the absence of any intimation that the European power in question had been requested to assume the functions of protecting Power.

Again, when, in 1953, the Soviet Union broke off diplomatic relations with Israel, satisfactory arrangements were made for the custody of the

¹ For statutory authority see: Wireless Telegraphy Rules, 1924 (Cf. Drayton: Laws of Palestine, Vol. III p. 2311). See also Circular Memorandum to all foreign diplomatic and consular missions in Israel of 21 March 1949.

² Road Transport Ordinance, Laws of Palestine, Cap. 128 (as amended) section 11. In terms, this applies only to consular officers and in practice is applied also to diplomatic officers.

³ Circular letters to the diplomatic corps of 28 February 1950 and 30 December 1952.

⁴ Entry into Israel Law, 5712-1952, Sect. 17 (a). Sefer haHukkim, 5712-1952, p. 354.

⁵ Emergency Regulations (Foreign Travel) (Amendment) Ordinance 5709-1948, sect. 7.

archives of the Soviet Legation (as it then was) in Israel and of the Israel Legation in the Soviet Union. In each case the archives were placed into custody of a protecting Power.

Right to wear uniform

No official uniform is worn by the Israel diplomatic and consular service.

In 1945 the Government of Palestine promulgated an emergency regulation prohibiting the wearing of unauthorized uniforms and emblems. An exception was made, however, in the case of foreign consular officials who were permitted to wear distinctive dress or other emblems normally worn in the course of their official duties.¹

National Registration

By circular letter of the Chief of Protocol (P/10/50 of 25 July 1950) the diplomatic missions in Israel were informed that the legal provisions — in this case those on manpower registration — referred only to Israel citizens in the employment of foreign legations, exempting, thereby, all members of the diplomatic staff itself as well as all nonlocally recruited staff.²

Food Rationing

The general provisions on rationing of food and other commodities were not applicable to members of the diplomatic corps and to non-locally employed staff. All those persons were furnished with ordinary rationing coupons.³ In addition, special provisions for privileged supply were introduced, and notice thereof duly made.⁴ Such provisions were not made for the locally employed staff.

Franchise d'hôtel

In the execution phase of the *Shababo* case previously cited the relevant facts were as follows:

The judgment debtor had refused to answer a summons to appear for examination on his means. In those circumstances an arrest warrant may be issued at the instance of the judgment creditor. Upon an arrest warrant having been issued in this case, the judgment debtor sought refuge in the Consulate General of which he was an employee and the Consul General refused to allow the police to effect an entry for the purpose of making the arrest. In those circumstances the judgment creditor applied for an order from the Execution Office to compel the police to enter the premises and effect the arrest. In granting this order the Chief Execution Officer refused to regard the *franchise d'hôtel*, even if it were to apply to a Consulate General, as allowing the judgment debtor in a civil case to avoid an arrest of this character. He further went on to hold that consular immunity does not comprise the *franchise d'hôtel* unless specifically provided for by treaty.

Termination of Mission

Upon the break of diplomatic relations between Israel and the Soviet Union previously referred to, mutual arrangements were made on the basis

¹ Palestine Gazette No. 1442, Suppl. No. 2 of 27 September 1945, p. 1055.

² Kovets haTakanot, No. 99, 12 July 1950-5710.

³ Circular Letter of the Chief of Protocol P/29/51 of 8 May 1951.

⁴ For clothing coupons by Circular Letter of the Chief of Protocol 15/50 of 18 August 1950; for food: by Circular Letter P/19/50 of 8 September 1950; for consumption in restaurants: by Circular Letter P/22/50 of 2 November 1950.

of strict reciprocity for the repatriation of the two diplomatic missions concerned.

There have been one or two cases in which heads of Israel missions abroad or other diplomatic personnel have been declared by the receiving government to be *persona non grata*. On some of these occasions the Israel Government has found it necessary to dispute the accuracy of the facts upon which the allegations were based, while at the same time recalling the individual concerned.

FINANCIAL PRIVILEGES AND IMMUNITIES

15. *Income Tax*

Sums payable to diplomatic representatives and consular officers in the regular service of a foreign State in respect of their offices or in respect of services rendered by them in their official capacities, to the extent that such foreign State accords such exemption to the State of Israel, are exempt from Israel tax.¹

Succession Duty

The Succession Duty Law of 1949² contains no specific provisions concerning diplomats. However, if the deceased was a diplomat, the situation of this property will depend on how the word "resident" (Sect. 2) will be construed; it must be added, however, that immovable property follows the Israel law wherever the owner was resident. The same applies to the case where the diplomat is one of the beneficiaries.

Land Betterment Tax

No exemptions are granted.

Travel Tax

Members of the diplomatic corps and also local employees, if not engaged in any other profession, and if recognized by the Foreign Minister as being eligible for the exemption, may enjoy such exemption.³

National Insurance

Referring to the National Insurance Law of 1954, the foreign missions were informed that it was thought that as far as locally employed personnel were concerned the interested parties should avail themselves of the facilities provided by the law.⁴

Compulsory Loan

In 1952 a currency conversion operation was undertaken by which all existing banknotes were withdrawn from circulation and replaced. At the same time 10 per cent of their value, and of the value of bank accounts, was deducted in the form of a compulsory loan. This did not apply to bank notes presented by, and bank accounts owned by, foreign States or their representatives.⁵ The compulsory loan was also applied to all other forms

¹ Income Tax Ordinance (as amended) No. 31, 5708-1948, Sect. 8(g) Suppl. No. 1 to the Off. Gazette No. 23 of 22 September 1948.

² Sefer haHukkim No. 22 of 7 September 1949.

³ Kovets haTakanot No. 454 of 10 June 1954, p. 727; Sect. 2(3) and 2(4).

⁴ Circular Letter to the Chief of Protocol P/81/55 of 30 January 1955.

⁵ Exchange of Banknotes and Compulsory Loan Law, 5712-1952, sect. 7. Kovets haTakanot, No. 277, 9 June 1952, p. 1028.

of property, movable and immovable, and again foreign States and their representatives were granted exemption therefrom.¹

Urban and Rural Property Taxes

By the (Mandatory) Rates and Taxes (Exemption) Ordinance, a building or occupied land of which any state or any person holding on behalf of any State is the owner, provided that such building or occupied land is used by such State for the purpose of a consulate by the Consul-General or any other Consular officer *de carrière* of such State, and provided that the building or land is not used by such State for any purpose the object of which is to derive pecuniary profit, is exempt from these government taxes. In terms this law, which has not been amended, only applies to buildings or land used for consular purposes. But a procedure also exists whereby a State may claim exemption if it considers such to be due by virtue of any treaty or on any other ground.² In the view of the Government this is sufficient to assure such exemption in respect to buildings or land used for diplomatic purposes.

War Damage Contribution

The same exemption applies in respect to this contribution as far as immovable property is concerned.³

Land Transfer Fees

The Minister of Justice may, upon recommendation of the Minister for Foreign Affairs, exempt from all or part of any registration fee a transaction in land for the purposes of the offices of any diplomatic or consular representation of a foreign state, or the dwelling place of a foreign diplomatic representation, or postpone payment of the fee, in whole or in part, for such period and upon such conditions as he may determine, provided that the foreign state granted equivalent exemptions to the State of Israel.⁴

Miscellaneous taxation

Driving licences, registration, and number plates are, as far as diplomats are concerned, free of tax, but the position is otherwise as regards locally engaged employees. Radio transmitting and receiving licences are likewise free for all diplomatic and non-locally engaged personnel, on condition of reciprocity. The same applies to fire-arm licences. For the installation of telephones, reductions on charges are granted.⁵

Special taxation for defence purposes

As a matter of general principle diplomatic and consular representatives are granted exemption from various special levies which have been made to cover defence expenditure. Thus the Defence Levy (Yahav Magen) Law, 5716/1956, which imposed a special levy both on incomes and in the form

¹ Compulsory Loan Law, 5713-1953, sect. 64. Sefer haHukkim, 1953, 3 April 1953, p. 70. Kovets haTakanot, No. 371, 2 July 1953, p. 1194.

² Sect. 8 (Rural property tax); sect. 12 (Urban property tax).

³ War Damage Arnona Law, 5711-1951, sect. 19(b)(3) Sefer haHukkim 68, p. 44.

⁴ Land Transfer Rules, 1956, Sect. 11.

⁵ Circular Letters of the Chief of Protocol P/70/54 of 5 January 1954 and P/103/56 of 16 June 1956.

of indirect taxation, contained appropriate exemptions for diplomatic personnel.¹ By the Defence Stamp Law 5717/1956, which imposed various additional stamp duties, a similar exemption was given.²

Municipal Taxes

Exemption is granted from the municipal property rate, municipal general rate and municipal education rate upon the same conditions as exemption is granted from the Rural and Urban Property Taxes.³

No exemption is granted in respect to municipal charges which are in the nature of consideration for services rendered, including water rate, sewage rate, etc. and where the return for services is comprised within a more comprehensive general rate, arrangements are made for the payment of an appropriate proportion.

Israel local authorities, both urban and rural, are empowered to impose a social service tax on meals served in restaurants and on hotel bills. Imposition of these taxes is sometimes disputed by foreign diplomatic and consular personnel. The attitude of the Israel Government is that no exemption can be made in respect to occasional meals and occasional stays in hotels. On the other hand, where foreign diplomatic or consular representatives have established permanent residence in an hotel, the local authorities are recommended to grant an exemption from these taxes.

Customs Duties

Goods imported by a foreign diplomatic or consular representative, or by a foreign diplomatic or consular official who is a foreign citizen and who exercises no other profession, and who has been recognized for such purposes by the Minister for Foreign Affairs, are granted exemption from customs duties on importation of the goods which are intended for the public service of the diplomatic or consular representations concerned, or the officials' families. This exemption is conditional upon reciprocity.⁴

Special conditions apply to the resale of articles exempted from customs duties on importation. As to motor-cars imported by a foreign diplomatic mission or its head, and later sold to a third party, exemption from the customs duty and purchase tax, which would fall due on sale, may be granted to the extent that similar exemption is granted by the foreign state;⁵ it varies according to the period during which the vehicle has been in use. General licences under the Import, Export and Customs Powers (Defence) Ordinance, 1939⁶ regarding the import and export of personal effects by foreign diplomatic and consular personnel are in force.

¹ Defence Levy Laws, 5716/1956, Sect. 4 (Defence Levy on Income), Sect. 42 (Defence Levy on telephone and electricity bills and on vehicles).

² Defence Stamp Law, 5717/1956, Sect. 8.

³ Rates and Taxes (Exemption) Ordinance of 1938, sect. 4. This exemption is also granted to the equivalent taxes of other local authorities.

⁴ Customs Tariff, item 774 twice amended, once by order of 20 March 1952 (of Kovets haTakanot, No. 253, p. 614; this was amplified in the Circular of the Protocol Department dated 12 March 1952) and by Ordinance No. 14 of 1954, see Kovets haTakanot No. 421 of 3 February 1954, pp. 402-3.

⁵ Customs Ordinance, sect. 139 (3) as amended by 14 Customs Ordinance (Amendment).

⁶ Palestine Gazette, Sup. No. 1 No. 968 of 11 December 1939, p. 163.

Excise duties

Whereas exemptions are in certain cases granted (alcohol, petrol, motor oil, lubricants), legislation for other items is envisaged.

Purchase tax

An Order was issued on 20 September 1954 under Sect. 26 of the Purchase Tax Law of 1952¹ which provides for the grant of exemptions to the diplomatic and consular corps. (Sect. 1(8)). This is conditional upon reciprocity.

Privileges as regards Foreign Currency were in force under varying conditions according to the prevailing stage of economic policy pursued by the Government. Thus, for a certain time diplomatic personnel and non-locally engaged staff were granted the most favourable rates of exchange. They are allowed to maintain banking accounts in foreign currency.²

JURISDICTIONAL IMMUNITIES

16. It was laid down in the *Shababo* case that for a plea of immunity to succeed, the person putting the claim forward must prove his entitlement to it. For this purpose the defendant may enter a conditional appearance in a civil case, or apply by motion to have the preliminary issue tried, or the Court may decide to do so *proprio motu*.³ In a criminal case an accused may, likewise, apply that the issue of jurisdiction be tried as a preliminary question. From this it follows that the grant of jurisdictional immunities is not the automatic consequence of the recognition of the diplomatic (or consular) status of the individual concerned, although in the normal case no difficulty is to be anticipated. For this reason there is no statutory provision governing the service of process upon persons entitled to immunity, since it is assumed that the question of immunity is one to be specially pleaded by the defendant in a concrete case. On the other hand, every effort is made to ensure that the service of process is effected through the Protocol Division of the Ministry for Foreign Affairs and not through the normal channel of the Courts. Both litigants, and the Courts' Administration, are advised accordingly whenever any specific instance is brought to the notice of the Foreign Ministry.

The position is similar as regards the immunity of foreign diplomatic and consular personnel from the duty of giving evidence and producing documents in Court. In principle this is a duty which ought not to be refused, a recalcitrant witness being liable to penalty at the hands of the Court.⁴ Theoretically a person enjoying diplomatic or consular immunity who nevertheless appears in Court as a witness might be held responsible for contempt of Court should he refuse to answer a question which the Court ruled he ought to answer. However the Attorney-General has intimated that a witness enjoying diplomatic or consular immunity who waives his immunity to the extent of appearing in Court as a witness may nevertheless claim immunity from answering any particular question. Various rules of Court exist whereby a witness who has a "lawful excuse" may refuse to

¹ Sefer haHukkim No. 110 p. 344, No. 153 p. 113.

² Circular letters P/40/51 of 17 December 1951 and P/55/52 of 27 October 1952.

³ Civil Procedure Rules, 1938, sect. 21(a)(ii).

⁴ Contempt of Court Ordinance, Cap. 23. Sect. 5.

give evidence or produce documents.¹ Furthermore arrangements may also be made to take evidence otherwise than in open Court, proper safeguards being available to the parties to the litigation. None of these provisions refers specifically to foreign diplomatic or consular personnel, but they are, in the Government's view (and pending any judicial pronouncement on the subject) sufficiently broad to include also that eventuality.²

On the diplomatic level, the Government takes the view that where a plea of immunity has the effect of preventing adjudication in the Israel Court, the way is open to the presentation of an international claim against the government or authority which made or authorized the claim to immunity.³

Italie

NOTE DU 4 MAI 1956 REÇUE DU REPRÉSENTANT PERMANENT DE L'ITALIE
AUPRÈS DE L'ORGANISATION DES NATIONS UNIES

« Le représentant permanent de l'Italie auprès des Nations Unies présente ses compliments au Secrétaire général des Nations Unies et . . . a l'honneur de l'informer que le Gouvernement italien n'a pas de lois ou règlements en matière d'immunités diplomatiques et consulaires.

« Les immunités et privilèges qui sont accordés aux représentants diplomatiques étrangers en Italie sont fondés sur les principes consuetudinaires qui sont appliqués par les différents États. »

Jordan (Hashemite Kingdom of) ⁴

(a) EXEMPTION FROM CUSTOMS DUTIES (DECREE OF 24 MARCH 1951) ⁵

In virtue of the powers vested in us by article 44 of the Customs and Excise Act, 1926, we hereby decide to exempt the following items from customs duties:

1. Materials and goods imported for the use of officers of the diplomatic and consular missions appointed in the Hashemite Kingdom of Jordan who are not carrying on any other trade or occupation.

2. Materials imported and intended to be used by diplomatic missions and by Consulates-General.

Provided always that there shall be reciprocity of treatment for the missions referred to in paragraphs 1 and 2 which represent the Government of the Hashemite Kingdom of Jordan in the country concerned.

¹ See for example Civil Procedure Rules, 1938, Sect. 176 (2); Criminal Procedure (Trial upon Information) Ordinance, Cap. 36, Sect. 21 (2); Magistrates Courts Procedure Rules, 1940, Sect. 126 (2).

² Civil Procedure Rules, 1938, Sect. 180; Magistrates Courts Procedure Rules, 1940, Sect. 130.

³ This view has been put forward in the diplomatic correspondence in connection with the *Shababo* case, and elsewhere.

⁴ The texts of enactments reproduced under Jordan have been provided by the Minister for Foreign Affairs of the Hashemite Kingdom of Jordan. Translation by the Secretariat of the United Nations.

⁵ Official Gazette, No. 1060, of 24 March 1951.

Provided also that such goods are consigned, at the time of importation, in the name of the diplomatic or consular officer or of the diplomatic or consular mission itself, or are accompanied by any of the known members of such mission, or are consigned to the diplomatic or consular officer or the diplomatic or consular mission from a bonded warehouse in the Hashemite Kingdom of Jordan.

(b) EXEMPTION FROM CUSTOMS DUTIES (DECREE OF 16 OCTOBER 1955) ¹

In virtue of the powers vested in us by article 44 of the Customs and Excise Act, 1926, we hereby decide as follows:

1. The quantities of foreign tobacco which are used in the manufacture of cigarettes and local tobacco for sale to diplomatic missions in the Hashemite Kingdom of Jordan shall be exempt from customs duties, provided that the said quantities are imported by tobacco companies for that specific purpose, or are transferred to them through private or public bonded warehouses, that the quantities that may be used for this purpose are determined with the approval of the Minister of Trade, and that they are actually used under customs supervision in accordance with the procedure prescribed by the Minister.

(c) EXEMPTION OF DIPLOMATIC AND CONSULAR MISSIONS FROM THE TAXES LEVIED BY THE MUNICIPALITIES ON INFLAMMABLE LIQUIDS (DECREE OF 16 OCTOBER 1947) ²

The Council of Ministers, considering that foreign diplomatic and consular missions in the Hashemite Kingdom of Jordan have been granted exemption from all customs duties and other charges, and having regard to article 54 of the Municipalities Act, as amended by Act No. 3 of 1939 published in the Official Gazette, No. 621, decided, at its meeting held on 1 October 1947, to approve the exemption of the said missions from the municipal taxes on the consumption of the inflammable liquids specified in article 43 of the Municipalities Act, provided that reciprocal treatment shall be extended to Jordanian diplomatic and consular missions in the countries represented by the foreign diplomatic or consular missions in the Hashemite Kingdom of Jordan.

Korea ³

(a) POLITICAL CONSTITUTION

Article 7. Duly ratified and published treaties and the generally recognized rules of international law shall have the same effect as that of the law of Korea.

The status of aliens shall be guaranteed within the scope of international law and treaties.

¹ *Ibid.*, No. 1237, of 16 October 1955.

² *Ibid.*, No. 923, of 16 October 1947.

³ The texts of enactments reproduced under Korea have been provided by the Ministry of Foreign Affairs of Korea.

(b) CRIMINAL LAW No. 293 OF 18 SEPTEMBER 1953

Article 107. (Violences committed to the chief of foreign country.)

(1) Persons who have committed violence to or made threat to the head of a foreign state staying in the territory of the Republic of Korea shall be punished by penal servitude or imprisonment for a period not more than seven years.

(2) Persons who have committed dishonour to or have defamed the above-mentioned foreign sovereign shall be punished by penal servitude or imprisonment for a period not more than five years.

Article 108. (Violences committed to the envoy of foreign country.)

(1) Persons who have committed violence to or made threat to the envoy of a foreign country dispatched to the Republic of Korea shall be punished by penal servitude or imprisonment for a period not more than five years.

(2) Persons who have committed dishonour to or have defamed the above-mentioned envoy of a foreign country shall be punished by penal servitude or imprisonment for a period not more than three years.

(c) LAW No. 65 OF 17 NOVEMBER 1949 CONCERNING ENTRY, EXIT AND REGISTRATION OF ALIENS

Article 1. Aliens shall register upon entry and exit according to this law; this rule, however, shall not be applicable to alien diplomats and consuls in the Republic of Korea, and to their suites and family, or to persons on official duty of a Foreign Government.

(d) CUSTOMS LAW No. 67 OF 23 NOVEMBER 1949

Article 32. The goods falling within any one of the following categories shall be exempted from customs duties:

(1) Goods belonging to the chief of a foreign country, his family, or retinue visiting Korea;

(2) Goods for the personal use of foreign ambassadors, ministers, or other envoys in similar standing dispatched to Korea; or the goods for official use of foreign Embassies or Legations in Korea; except that a reciprocal arrangement shall be applied for the countries which enforce restrictions upon the duty free import of goods for personal use of the Korean ambassador, minister or such other envoy, or of goods for the official use of the Korean Embassy or Legation;

(3) Goods for the official use of foreign consulates or offices of commercial representatives in Korea, whose country exempts such goods for the official use of the Korean consulates or offices of commercial representatives; in which case mutual arrangements shall apply;

(4) Goods for personal use of the attachés of Embassies, Legations, the Consulates, the representatives of the office of commercial representatives

of countries where the customs duties are free to those for the attachés of Korean Embassy, Legation, Consulate or the representatives of the office of commercial representatives to them; so the mutual arrangements shall be applied;

. . .

(e) LOCAL TAX LAW No. 84 OF 22 DECEMBER 1949

. . .

Article 16. To any of the following, the local tax shall not be imposed, provided, however, that in case such land, house or goods as described in the following items 1, 2 and 4 is allowed to be used and profited from by the consent of the Government, this shall not be applicable to the tax to be assessed on such person who used and profited from them:

. . .

(6) The building and site furnished for the use of embassy or consulate owned by the foreign country.

. . .

(f) REGISTRATION TAX LAW No. 167 OF 1 DECEMBER 1950

. . .

Article 26. In case of registration relating to the site and building of foreign Embassy, Legation or Consulate, the registration tax shall be exempted in accordance with the provisions of the Presidential Decree; provided that exceptions are made in the case of a foreign country which does not exempt the registration tax in respect of the site or building of the Embassy, Legation or Consulate of the Republic of Korea.

(g) PRESIDENTIAL DECREE No. 449 OF 9 FEBRUARY 1951 FOR THE ENFORCEMENT OF THE REGISTRATION TAX LAW

. . .

Article 9. The registration relating to a site or building of an Embassy, Legation or Consulate of a foreign country shall be, if the Government deems it to correspond to the following numbers, exempted from the registration tax in accordance with the provisions of Article 26 of the Registration Tax Law:

(1) The site or building concerned is directly used by the Embassy, Legation or Consulate;

(2) The country concerned exempts the tax on registration relating to the site or building of the Embassy, Legation or Consulate of the Republic of Korea.

. . .

(h) PRESIDENTIAL DECREE No. 372 OF 10 JUNE 1950 FOR THE ENFORCEMENT OF THE NATIONAL PROPERTY LAW

. . .

Article 54. In regard to the non-administrative property leased to an alien government to be used for the site of its Embassy, Legation or Consulate, subject to a lease contract without consideration, a recession may be

possible if another substituting property is to be leased to the said alien government after the original lease contract is rescinded for reason of governmental affairs.

(i) ORDINANCE OF THE MINISTRY OF FOREIGN AFFAIRS No. 8 OF 28 MAY 1948
(RULES ON ISSUANCE OF THE IDENTIFICATION CARD FOR ALIEN DIPLOMATS)

Article 1. The Minister of Foreign Affairs shall issue the identification card to alien diplomats, etc. stationed in the Republic of Korea.

Article 7. The diplomatic, consular or foreign mission members' identification card certifies that the bearer shall enjoy the treatment as is generally recognized by international law and practices. The foreign mission employees' identification card shall have no effect but to identify the status of its bearer.

Article 10. These rules shall be applied to the representatives and their staffs of the United Nations organizations stationed in the Republic of Korea.

Luxembourg

a) EXPOSÉ RELATIF AUX LOIS ET RÈGLEMENTS LUXEMBOURGEOIS EN MATIÈRE D'IMMUNITÉS DIPLOMATIQUES ET CONSULAIRES, ANNEXÉ A LA NOTE DU 27 AVRIL 1956 REÇUE DU MINISTÈRE DES AFFAIRES ÉTRANGÈRES DU GRAND-DUCHÉ DE LUXEMBOURG

Remarques préliminaires. Le relevé des dispositions légales en matière de privilèges et d'immunités diplomatiques ne représente qu'une image fort fragmentaire des principes appliqués en pratique. Pour apprécier la signification des textes cités ci-après, il convient de tenir compte des considérations suivantes :

1. Il est admis que les privilèges diplomatiques ont leur origine dans la coutume internationale et non pas dans la législation nationale. C'est pourquoi il est toujours possible de reconnaître, conformément à la coutume internationale, un privilège en dehors des dispositions légales existantes et même en l'absence de toute disposition légale positive.

2. En matière de privilèges diplomatiques, la courtoisie et les considérations politiques sont intimement mêlées aux règles juridiques; d'autre part, l'octroi des privilèges est conditionné largement par la réciprocité de traitement. Il faut ajouter que, pour le surplus, les administrations nationales ont tendance, dans les cas-limite du moins, à résoudre les questions qui se présentent sur une base de pur fait, de manière à ne pas créer des précédents qui pourraient créer des difficultés dans la suite. Pour toutes ces raisons, il est fort difficile de dégager des règles suffisamment générales et certaines dans cette matière.

1. IMMUNITÉS DE POLICE, DE JURIDICTION ET D'EXÉCUTION FORCÉE

Le seul texte en la matière est une *loi française du 13 ventôse an II*, qui est restée en vigueur au Luxembourg depuis l'annexion du pays à la France sous la Révolution française:

« La Convention interdit à toute autorité constituée d'attenter en aucune manière à la personne des envoyés des Gouvernements étrangers; les réclamations qui pourraient s'élever contre eux seront portées au Comité de salut public, qui seul est compétent pour y faire droit. »

Ce texte très vague permet une interprétation jurisprudentielle assez libre. Il met obstacle à toute mesure de police et de contrainte juridictionnelle; il réserve au Gouvernement (interprétation moderne des termes « Comité de salut public ») la connaissance de toutes actions dirigées contre les agents diplomatiques.

En matière de juridiction pénale, il faut relever particulièrement l'incidence du principe de l'opportunité des poursuites. En vertu de ce principe (purement coutumier) les Parquets apprécient dans chaque cas l'opportunité des poursuites pénales. Cette latitude d'appréciation permet normalement au Gouvernement de faire arrêter les poursuites pénales avant même qu'une juridiction ait été saisie formellement, de manière que le problème est réglé de cas en cas sur une base plutôt politique.

Il y a lieu de signaler d'autre part une disposition de l'*arrêté grand-ducal du 25 juillet 1934*, portant modification de l'art. 6 de l'*arrêté grand-ducal du 31 mai 1934*, ayant pour objet d'introduire la carte d'identité pour les étrangers:

« La carte d'identité n'est pas exigée des représentants diplomatiques et consulaires des pays accrédités au Grand-Duché, ni de leur famille, ni du personnel attaché aux légations, ainsi que des étrangers employés au service de l'État et de leurs conjoints et enfants vivant avec eux. »

II. IMMUNITÉS FISCALES

1. *Impôt sur le revenu et impôt sur la fortune*

*Paragraphe 9 de la loi d'adaptation du 16 octobre 1934*¹. « Sont exempts de l'impôt sur le revenu et sur la fortune les personnes, associations de personnes, corporations et masses de biens pour autant qu'elles ont droit à une exemption:

1. D'après les règles générales du droit des gens, sous réserve de réciprocité ou
2. D'après les conventions particulières avec d'autres États. »

Remarque: Le principe de droit international applicable en l'occurrence est celui de l'exterritorialité. En conséquence, l'agent diplomatique est traité comme non-résidant au point de vue fiscal ce qui entraîne une exemption fiscale pour tous les revenus et tous les biens, sauf les revenus qui auraient leur source sur le territoire luxembourgeois et les biens qui y auraient leur siège.

2. *Impôt foncier*

*Paragraphe 4 de la loi sur l'impôt foncier du 1^{er} décembre 1936*¹. « Sont exemptés de l'impôt foncier . . . 10. Les biens immeubles d'États étrangers, utilisés pour les ambassades, légations ou consulats de ces États, sous réserve de réciprocité. »

¹ Il s'agit de dispositions légales allemandes, introduites sous l'occupation et maintenues en vigueur à la suite de la guerre.

3. *Taxe d'importation*

Arrêté grand-ducal du 28 juin 1946 concernant la taxe d'importation, article 3:

« Sont exemptés de la taxe d'importation:

« 1° Les marchandises, objets ou denrées destinés aux ministres des puissances étrangères résidant dans le Grand-Duché . . . »

Remarque: Cette taxe, qui n'est pas à confondre avec les droits de douane, est en réalité une taxe sur le chiffre d'affaires, payable à l'importation.

4. *Taxes diverses levées par l'Administration de l'enregistrement. Taxes locales*

Il n'existe pas de dispositions légales relatives aux droits d'enregistrement, de transcription et de timbre. L'immunité de ces taxes et droits est accordée conformément aux usages internationaux, à titre de réciprocité.

La même remarque vaut pour les taxes locales. Ces taxes sont toutefois payables chaque fois qu'elles ne sont que la rémunération pour services ou fournitures.

5. *Droits de douane et droits d'accise*

Conformément aux dispositions du *Traité d'union économique entre le Luxembourg et la Belgique, du 25 juillet 1921*, le territoire de l'Union est régi par la législation belge en matière de douanes et d'accises unifiées.

Les franchises douanières sont régies par l'*arrêté ministériel belge du 19 décembre 1947*, dont l'article 15 traite des franchises personnelles et l'article 16 des fournitures de chancellerie.

« *Article 15. — Paragraphe 1^{er}.* — Sous condition de réciprocité, la franchise totale des droits d'entrée est accordée pour les marchandises destinées à l'usage personnel des agents diplomatiques et des consuls de carrière en fonction dans le territoire de l'Union Économique Belgo-Luxembourgeoise, ainsi que des agents de chancellerie attachés aux légations et consulats y établis, pour autant que les intéressés soient étrangers et qu'ils n'exercent dans le territoire de l'Union Économique Belgo-Luxembourgeoise aucune profession.

« Par usage personnel, on entend aussi l'usage par les membres du ménage.

« *Paragraphe 2.* — La franchise est accordée sur production d'une attestation dans laquelle l'ayant-droit indique sa qualité et certifie que les marchandises sont destinées à son usage personnel. Cette attestation doit donner la spécification des marchandises avec indication de l'espèce, du nombre et des marques des colis.

« Lorsque les marchandises sont destinées à un agent de chancellerie attaché à une légation ou à un consulat, la pièce ci-dessus doit être visée par le chef de mission ou le chef du consulat.

« *Paragraphe 3.* — Au cas où les marchandises importées en franchise sont cédées à des tiers, les droits deviennent exigibles.

« A l'importation, la franchise peut être constatée par la délivrance d'un document qui cesse ses effets si les marchandises ne restent pas à l'usage de l'ayant droit. »

« *Article 16. — Paragraphe 1^{er}.* — Sous condition de réciprocité, la franchise totale des droits d'entrée est accordée pour les fournitures de chancellerie envoyées par des gouvernements étrangers ou en leur nom, à leurs consulats établis dans le territoire de l'Union Économique Belgo-Luxembourgeoise.

« *Paragraphe 2.* — La franchise est accordée sur production d'une attestation dans laquelle le consul intéressé affirme que les marchandises sont importées à l'usage du consulat et pour autant qu'il soit établi que les marchandises ont été envoyées directement au consul intéressé par son gouvernement ou par le représentant de celui-ci dans un pays tiers. »

L'exemption des droits d'accise est régie par l'article 3 de la loi belge du 30 juin 1951:

« Exemption totale ou partielle du droit d'accise et de la taxe spéciale de consommation est accordée, aux conditions à déterminer par le Ministre des finances, pour les marchandises destinées à l'usage personnel des agents diplomatiques et des consuls de carrière, en fonction dans le pays, ainsi que des agents de chancellerie attachés aux légations et consulats y établis, pour autant que les intéressés soient étrangers et qu'ils n'exercent dans le pays aucune profession, et sous condition de réciprocité.

« Par usage personnel on entend aussi l'usage par les membres du ménage. »

III. SÉCURITÉ SOCIALE

1. *Dispositions générales*

Article 304, alinéa 2 du Code des assurances sociales (*loi du 10 avril 1951*): « Le gouvernement pourra arrêter dans quelles conditions et dans quelle mesure les assurés, dont les employeurs se seraient soustraits ou pourraient se soustraire aux obligations incombant à eux en vertu de cette loi, y seront contraints personnellement. »

L'article 2, 8°, de la loi du 29 août 1951, ayant pour objet la réforme de l'assurance-pension des employés privés, formule une exemption expresse des obligations prévues dans cette loi en ce qui concerne « les ressortissants étrangers qui jouissent de privilèges et d'immunités diplomatiques ».

2. *Dispositions conventionnelles particulières*

Les Conventions générales sur la sécurité sociale conclues avec la Belgique, la France, la Grande-Bretagne, l'Italie et les Pays-Bas contiennent des dispositions en ce qui concerne l'affranchissement des agents diplomatiques ou consulaires et l'affiliation de leur personnel. On a reproduit ci-après la clause-type qui figure dans la *Convention italo-luxembourgeoise du 29 mai 1951*.

Article 3. — Paragraphe 1er. — « Les ressortissants des Parties contractantes occupés sur le territoire de l'une de ces Parties sont soumis à la législation de celle-ci » . . .

Article 4. — « Les dispositions du paragraphe 1er de l'article 3 sont applicables aux travailleurs, quelle que soit leur nationalité, occupés dans les postes diplomatiques ou consulaires des Parties contractantes ou qui sont au service personnel d'agents de ces postes.

« Toutefois,

« 1° Sont exceptés de l'application du présent article les agents diplomatiques et consulaires, y compris les fonctionnaires appartenant au cadre des chancelleries;

« 2° Les travailleurs qui appartiennent à la nationalité du pays représenté par le poste diplomatique ou consulaire et qui ne sont pas fixés définitivement dans le pays où ils sont occupés peuvent opter entre l'application de la législation du pays de leur lieu de travail et celle de la législation de leur pays d'origine. »

IV. CIRCULATION

1. *Plaque « CD »*

Loi du 7 mars 1955, article 4 alinéa final: « Un arrêté du Ministre des affaires étrangères et du Ministre des transports déterminera les catégories de personnes qui pourront bénéficier de l'autorisation de munir leurs véhicules automoteurs de plaques portant les lettres latines CD. »

Arrêté ministériel du 27 novembre 1955, article 1^{er}:

« Les catégories suivantes de personnes sont autorisées à munir leurs véhicules automoteurs de plaques portant les lettres latines CD :

« a) Les membres du corps diplomatique accrédités au Grand-Duché de Luxembourg;

« b) Les membres de la Haute Autorité de la Communauté Européenne du Charbon et de l'Acier;

« c) Les juges, les avocats généraux et le greffier de la Cour de Justice de la Communauté Européenne du Charbon et de l'Acier;

« d) Les membres des missions d'États accrédités auprès de la Communauté Européenne du Charbon et de l'Acier, pour autant qu'ils ont un statut diplomatique reconnu dans chaque cas par le Ministre des affaires étrangères. »

2. *Taxe sur les véhicules à moteur*

Paragraphe 47 de l'ordonnance d'exécution de la loi sur les véhicules à moteur mécanique du 5 juillet 1935¹:

« 1) L'impôt peut être remis, sur demande, et sous condition de réciprocité

« 1. Pour les voitures de service immatriculées au nom d'une mission diplomatique accréditée d'un pays étranger;

« 2. Pour des voitures automobiles, immatriculées au nom d'un membre des missions diplomatiques mentionnées sub 1 ou de toute autre personne appartenant au personnel de ces représentations et qui n'est pas soumise à la juridiction nationale;

« 3. Pour des voitures de service immatriculées au nom d'une mission consulaire accréditée d'un pays étranger, si le chef de cette mission est fonctionnaire de carrière et ressortissant de l'État qu'il représente et si en dehors de sa fonction il n'exerce aucune activité lucrative dans le pays;

« 4. Pour des voitures automobiles, immatriculées au nom d'un représentant consulaire accrédité (consul général, consul, vice-consul, agent consulaire) ou d'un fonctionnaire auxiliaire si le demandeur est fonctionnaire de carrière et ressortissant de l'État qu'il représente et si en dehors de sa fonction il n'exerce aucune activité lucrative dans le pays.

« 2) Le Ministre des finances constate si, et dans quelle mesure, la réciprocité est donnée. »

¹ Il s'agit de dispositions légales allemandes, introduites sous l'occupation et maintenues en vigueur à la suite de la guerre.

Monaco

a) ORDONNANCE SOUVERAINE DU 7 MARS 1878 PORTANT ORGANISATION DES CONSULATS ¹

Article 2. Les consuls n'ont ni le caractère ni les attributions des agents diplomatiques.

Cependant, ils peuvent devenir les intermédiaires officieux de notre gouvernement près le gouvernement du pays où ils résident.

Leurs prérogatives et immunités résultent de nos traités avec les puissances étrangères, et, à défaut de convention spéciale, de l'usage et de la réciprocité.

Nepal

NOTE OF 15 AUGUST 1956 RECEIVED FROM THE MINISTRY FOR FOREIGN AFFAIRS OF NEPAL

“ The Ministry very much regrets to inform the Secretary-General that there is not as yet any publication regarding the laws and regulations of Nepal on diplomatic and consular intercourse and immunities. The privileges and immunities now accorded to the Diplomatic Corps are based on conventions and general international practice.”

The Netherlands ²

(a) EXPLANATORY MEMORANDUM ON PRIVILEGES AND IMMUNITIES ENJOYED BY DIPLOMATIC AND CONSULAR REPRESENTATIVES IN THE NETHERLANDS

(1) Introduction

The official staff of the Legation is taken to comprise the diplomatic officers belonging to the Foreign Service and the lower grade personnel attached to the Legation as, for instance, typists, janitors, chauffeurs, etc. The non-official staff comprises the personnel in the personal service of the diplomatic officer. Members of the official staff enjoy the same immunities as those enjoyed by the Head of the Mission. Members of the official staff as well as members of the non-official staff possessing Netherlands nationality cannot plead exterritoriality.

In the Netherlands the non-official staff of foreign nationality enjoy the same privileges as the diplomatic officers, but their immunity extends only to their person and not, as in the case of diplomatic officers, to their dependents.

The consular archives are inviolable (the Netherlands authorities shall neither examine nor detain them). The official documents should always be kept separate from the consul's private papers and, in case he should carry on a business or a profession in addition to his consular duties, from the papers pertaining to this business or profession.

¹ Le texte de cette ordonnance a été fourni par le Ministre d'Etat, directeur du Service des relations extérieures de la Principauté de Monaco.

² The texts of Laws and Regulations reproduced under the Netherlands, together with the Explanatory Memorandum, have been provided in English by the Permanent Representative of the Netherlands to the United Nations.

Asylum in a consulate can never be granted, nor does the consul have the competence to detain persons there against their will.

(2) *Immunity from legal process*

Article 13a of the Act of 1829 comprising General Provisions relating to the Legislation of the Kingdom provides: "The jurisdiction of a Court and the enforceability of its sentences and of public instruments shall be restricted by the exceptions recognized by international law."

Paragraph 3 of Article 13 of the Regulations concerning the Office of Process Server, provides: "The process server shall refuse to serve a writ if he has been notified by Our Minister that the serving of the writ would be contrary to the international obligations of the State. No liability to parties shall attach to him for this refusal."

Article 13a of the General Legislation Provisions Act is interpreted thus that a diplomatic representative shall not be subject to the jurisdiction of a Netherlands civil court. During the time he is in office no civil action can be instituted against him, neither in connexion with private obligations nor in connexion with obligations contracted before he took office as a diplomatic representative. The privilege of extritoriality cannot be pleaded, however, in case the public good requires that real property be expropriated. The use of any form of coercion — though lawful — with respect to the person of the diplomatic representative and with respect to the goods for his official or personal use is prohibited. Even in those cases in which a civil action against the Envoy is not impossible (for instance in case he should voluntarily subject himself to it) any form of coercion as referred to above is prohibited. The execution of a sentence is not possible under any circumstances.

Article 8 of the Penal Code provides: "The applicability of Articles 2-7¹ shall be restricted by the exceptions recognized in international law."

Article 8 of the Criminal Code is interpreted thus that a diplomatic representative is not liable to criminal proceedings. He is nevertheless obliged to comply with the provisions of the criminal law and of the police regulations of the receiving State. Arrest in the interests of public order is not impossible but shall never lead to prosecution. The execution of sentences in a criminal case as well as the execution of sentences in a civil action is always prohibited. When the Envoy is no longer in office he can only be prosecuted for acts not performed in the discharge of his duties.

A translation of a circular letter of the Minister of Justice of February 3, 1922, concerning offences against criminal law by persons of diplomatic status, has been attached (Annex A).²

The diplomatic representative may, in cases of criminal as well as civil jurisdiction, waive his extritoriality and subject himself to the jurisdiction of the receiving State. To do this he needs the consent of his Government, which is generally understood to have been given. In case the foreign Government waives the Envoy's extritoriality he can no longer plead this privilege before a court. If the Envoy consents to proceedings being commenced against him he is obliged to comply with the sentence, but this sentence cannot be enforced against him. If the Envoy institutes a civil

¹ Stating the categories of persons to which the Netherlands criminal law applies.

² See *infra* (b).

action he is, *ipso facto*, bound to submit to appeal proceedings instituted by the other party, and to pay the costs of litigation if his action is not sustained by the Court. The Minister may also voluntarily subject himself to so-called "voluntary jurisdiction", as, for instance, appointment to be a guardian by a court. If he should, for example, accept a guardianship he is obliged to comply with the legal provisions in force in this respect in the receiving State. For the voluntary subjection of the official and non-official legation staff to local jurisdiction the consent of the government in question, to be given by the Head of the Legation, is required. A foreign Government may waive the exterritoriality of its Envoy without the latter's consent; the foreign government will then have to decide whether this will also make the Envoy subject to the execution of the sentence.

The consular officers are subject to the provisions of the civil and criminal laws of the receiving State. They may, however, claim immunity from legal process, both civil and criminal, in respect of acts performed in the discharge of their official duties and within the scope of their official competence.

In this connexion attention may be drawn to the translated text (Annex B)¹ of a resolution of the States-General of September 9, 1679, which, it is presumed, is still in force.

(3) *Protection of foreign representatives*

Annex C² contains a translation of the text of the provisions of the Penal Code concerning insults to a representative of a foreign power.

(4) *Use of flags*

Annex D³ contains a translation of the text of the relevant Decree of the Ministers of Foreign Affairs, of Justice, of Defence and of Waterways, Bridges, etc. of the 19th of September 1939.

(5) *Solemnization of marriages*

Article 3 of the Act of July 7, 1906, provides: "The solemnization of marriages in the Kingdom in Europe by diplomatic and consular officers in virtue of article 6 of the Convention referred to in article 1 of this Act⁴ is permitted and recognized as legally valid. For the purpose of article 449 of the Penal Code⁵ such officers are considered to have the same competence as registrars in this respect."

(6) *Taxation*

In the Netherlands exemption is granted from:

(1) Income Tax; (2) Property Tax; (3) Personal Property and Rental Tax; (4) Vehicle Road Tax; (5) Turnover Tax; (6) Import Duties; (7) Local Taxes.

Annex E⁶ contains a translation of the text of the relevant provisions.

¹ See *infra* (c).

² See *infra* (d).

³ See *infra* (e).

⁴ The Convention Regulating Legal Conflicts in connexion with Marriages, signed at The Hague on June 12, 1902.

⁵ This article provides that any minister of religion who solemnizes a marriage before it has been solemnized by a registrar shall render himself liable to prosecution.

⁶ See *infra* (f) to (o).

There are no legal provisions granting exemption from excise duty for *goods purchased in the Netherlands*. The Netherlands taxation authorities grant this exemption, however, for goods purchased in the Netherlands in cases where exemption from excise duty would have been granted if they had been imported.

There are no legal provisions granting exemption from Real Estate Tax, Registration Duties and Stamp Duties. The Netherlands taxation authorities grant, however, exemption from registration and stamp duties in cases where real property has been purchased or rented by a foreign Government for the accommodation of its diplomatic or consular services or for the accommodation of the personnel attached to these services. In cases in which ordinarily real estate tax would be levied, no assessments are made.

There are no legal provisions granting exemption from Succession Duty. However, for the purpose of the application of the succession duty regulations, the Netherlands taxation authorities do not regard diplomatic officers of foreign powers as residents of the Netherlands.

(7) *Stamp duty and fees*

Annex F¹ contains a translation of the circular letter of the Minister of Home Affairs of February 20, 1953, concerning the issue free from stamp duty of copies of and extracts from certificates of births, deaths and marriages.

Paragraph 2 of Article 2 of the Population Registers and Temporary Residence Registers Act (April 17, 1887, Bulletin of Acts, Orders and Decrees No. 67) provides that information from the population registers and temporary residence registers shall be supplied free of charge to the representatives of foreign powers in this country.

(8) *Requisitioning of motor vehicles*

Article 50 of the Directives regarding the requisitioning of motor vehicles for Civil Defence purposes of May 13, 1954 (circular letter to the Provincial Governors No. 16773 of May 13, 1954, Public Order and Safety Department) grants diplomatic and consular officers and persons attached to any international organization exemption from registration of their motor vehicles, which means that these motor vehicles will not be requisitioned by, nor have to be made temporarily available to, the Civil Defence authorities.

(9) *Military billeting*

Paragraph 2 of Article 6 of the Military Billeting Ordinance provides: In the application of the Act and of this Ordinance the exceptions recognized by international law shall be observed.

(10) *Registration in the population registers*

Paragraph 1 and subparagraph b of paragraph 2 of Article 18 of the Population Registration Decree (Bulletin of Acts, Orders and Decrees 1936, No. 342) provide that persons or groups of persons to be designated by the Minister of the Interior, who, in virtue of international law or usage, are entitled to

¹ See *infra* (p).

extritoriality or diplomatic immunity, shall not be registered in the Netherlands population registers, provided they are aliens.

Annex G¹ is a translation of an extract from Section 1 of the Population Registration Manual, in which these persons and groups of persons have been summed up.

(11) *The Netherlands Antilles, Surinam and Netherlands New Guinea*

The privileges and immunities which are granted in these parts of the Kingdom are contained in Annexes H, I and J.²

(b) CIRCULAR LETTER OF THE MINISTER OF JUSTICE OF 3 FEBRUARY 1922 CONCERNING OFFENCES AGAINST CRIMINAL LAW BY PERSONS OF DIPLOMATIC STATUS

With reference to previous letters, in so far as this is necessary, I have the honour to draw your attention to the fact that ministers representing foreign powers in this country enjoy the privilege of extritoriality; this extritoriality extends to:

- (a) The members of their families living in their houses;
- (b) Members of the Legation, including military and other technical attachés and the members of their families;
- (c) Members of the personnel of the Legation (*gens d'uniforme*) e.g. secretaries, chancellors, clergymen;
- (d) Members of the domestic staff (*gens de livrée*) not possessing Netherlands nationality.

If any of the above-mentioned persons should commit an offence against the Penal Code, a report must be made; these reports must be sent to me as soon as possible through the intermediary of the prosecuting counsel or solicitor, while I should also appreciate being notified directly of any report which has been drawn up.

The police should keep in mind that foreign ministers and the personnel attached to foreign Legations must always be treated with the greatest consideration.

Though the provisions relating to extritoriality are not valid with respect to Netherlands in the service of foreign ministers or in the service of persons belonging to foreign Legations, it may be equally desirable that no action is taken upon reports made against such persons. In respect of these reports the same procedure should be taken as indicated above.

Finally, attention is drawn to the fact that police officials are not allowed to enter the Legation building, unless at the express desire of the Minister or of the acting Head of Mission, and even in such cases these police officials may never be of inferior rank. From the foregoing it follows that no writs may be served in the Legation building. The writs must be sent to me through the intermediary of the prosecuting counsels or solicitors.

I request you to bring the above to the notice of the appropriate police and judicial officials belonging to your department. For this purpose a number of copies of this circular letter has been enclosed.

¹ See *infra* (q).

² See *infra* (r), (s), (t).

(c) WARNING OF 9 SEPTEMBER 1679 BY THE STATES-GENERAL OF THE UNITED NETHERLANDS, AGAINST ARRESTING PERSONS, SERVANTS OR GOODS OF FOREIGN AMBASSADORS OR MINISTERS COMING TO THIS COUNTRY, RESIDING THERE OR PASSING THROUGH IT

The States-General of the United Netherlands, To all to whom these presents do, may or shall come, Greeting! Be it known: that every day many troubles and difficulties are caused because the Burghers of this State continue to have the Persons, Servants or Goods of Foreign Ambassadors or Ministers coming to this country, residing there or passing through it, arrested and detained. Now therefore, because we wish to make provisions against this practice, we have to-day determined to warn every one that Persons, Servants or Goods of Foreign Ambassadors or Ministers coming to this country, residing there or passing through it and, having contracted debts of any kind, must neither on their arrival, nor during their sojourn or on their departure be arrested, detained or apprehended for any debts they might have contracted in this country; and that the aforementioned burghers should, in their dealings with the Foreign Ambassadors or Ministers and their Servants, act in conformity with these regulations. And, in order that nobody pretend any ignorance of the contents of same, we herewith order and request the States, Councils and Deputies of the Provinces of Guelders and the County of Zutphen, Holland and West Friesland, Zeeland, Utrecht, Friesland, Overysse, the city of Groningen and its environs ("Ommelanden") and all other Justices and Officers of these our Lands that they shall have this Warning promulgated, published and posted up immediately and in all Places where this may be necessary and it is customary to do so.

(d) PENAL CODE

118. Any one who intentionally insults a representative of a foreign power with the Netherlands Government in his official capacity renders himself liable to imprisonment not exceeding four years or to a fine not exceeding three hundred guilders.

119. Any one who distributes, exhibits publicly or posts up any writing or picture constituting an insult to a reigning monarch or other head of a friendly state or to a representative of a foreign power with the Netherlands Government in his official capacity, or has any such writing or picture in store with the object of distributing it, exhibiting it publicly or posting it up, and who knows or has good reasons to suspect that the writing or picture constitutes such an insult, renders himself liable to imprisonment not exceeding six months or to a fine not exceeding three hundred guilders.

Any one who, knowing the tenor of any such writing or having good reasons to suspect its tenor, reads it out in public, renders himself liable to the same punishment.

If the offender has committed one of the offences referred to in this article in the course of his business and if, at the time of the commission of the offence, it was not yet two years ago that an earlier judgement passed on the offender on account of one of these offences became final, he may be prohibited from carrying on his business.

120. In case of conviction on account of the offences referred to in articles . . . and 118, the offender may be deprived of the rights referred to in article 28, Nos. 1-3.¹

418. Anyone who publishes any writing or picture of an indictable nature renders himself liable to imprisonment not exceeding one year or to a fine not exceeding 300 guilders, if:

(1) The offender is neither known nor has been made known at the first summons after the preliminary investigation has been commenced;

(2) The publisher knew or might reasonably be supposed to know that at the moment the writing or picture in question was published, the offender would not be liable to prosecution or would be outside the Kingdom in Europe.

419. Anyone who prints any writing or picture of an indictable nature renders himself liable to imprisonment not exceeding one year or to a fine not exceeding 300 guilders, if:

(1) The person by whose order the writing or picture in question was printed is neither known nor has been made known at the first summons after the preliminary investigation has been commenced;

(2) The printer knew or might reasonably be supposed to know that at the moment the writing or picture in question was published, the person by whose order the publication was made would not be liable to prosecution or would be outside the Kingdom in Europe.

420. If the writing or picture is of such a nature as to constitute an offence which can only be prosecuted on a complaint being lodged, the publisher or printer can — in the cases referred to in the two foregoing articles — only be prosecuted if a complaint is lodged by the person against whom the offence was directed.

(e) DECREE ² OF 19 SEPTEMBER 1939, ISSUED JOINTLY BY THE MINISTERS OF FOREIGN AFFAIRS, OF THE INTERIOR, OF JUSTICE, OF DEFENCE AND OF WATERWAYS, BRIDGES, ETC. CONCERNING THE USE OF NATIONAL FLAGS OF FOREIGN POWERS

The Ministers of Foreign Affairs, of the Interior, of Justice, of Defence and of Waterways, Bridges, etc., authorized by Her Majesty the Queen, lay down the following provisions in connexion with and for the maintenance of the neutrality proclaimed by the Government in the state of war existing between a number of foreign powers and inform everyone whom it may concern that:

Article 1. It shall not be allowed to display or keep national flags of foreign powers within the territory of the Realm in Europe.

Article 2. This prohibition shall not apply to:

(a) Flags flying either on or from buildings or on the adjoining grounds of legations or consulates of foreign powers, or flying on or from buildings

¹ I.e., 1. The right of holding an office or certain offices; 2. The right of serving in the armed forces; 3. The right of voting at and of eligibility for elections held in pursuance of the provisions of the law.

² *Bulletin of Acts, Orders and Decrees No. 190.*

and on grounds used by the diplomatic and consular representatives of foreign powers, or on the vehicles used by them;

(b) Flags flying from foreign warships, sea-going vessels and inland navigation vessels.

(f) DECREE No. 183 OF 11 FEBRUARY 1953 (REGULATIONS
CONCERNING INCOME TAX)¹

Article 26. (1) Exempt from the tax are the diplomatic, consular and other representatives of foreign powers and the officials assisting them and persons in the employment of these representatives and officials, provided they are aliens and do not engage in any other occupation or profession in the Netherlands and on condition of reciprocity if in the State by which the representatives are employed, a tax on income or on property is levied. Those who have lost their Netherlands nationality in virtue of Article 7, paragraph 1, subparagraph 4 of the Act of December 12, 1892 (*Bulletin of Acts, Orders and Decrees No. 268*) shall not be regarded as aliens, unless they possess a foreign nationality.

(2) The exemption in virtue of paragraph 1 of this Article shall not extend to the proceeds acquired outside one's office or occupation, from sources of income as referred to in Article 39, paragraph 1 of the Decree.²

(3) Also for resident tax-payers, the deduction on account of unsettled losses in previous years and on account of personal obligations shall be restricted to what, in virtue of paragraph 2 of Article 38 of the Decree,² is deducted in such cases for non-resident tax-payers.

¹ *Netherlands State Gazette*, 12 February 1953, No. 30.

² Articles 38 and 39 of the Income Tax Decree of 1941 read as follows:

Article 38. (1) Non-resident tax-payers shall pay tax on the net income earned in the Netherlands in the course of a calendar year;

(2) Net income earned in the Netherlands shall be taken to comprise the total amount of the net proceeds from sources of income in the Netherlands, less:

1st. Unsettled losses (Article 16, paragraph 1, 1st) on sources of income in the Netherlands, and

2nd. Interests on debts not connected with the acquisition of net proceeds or other kinds of income and secured by mortgage on real property situated or established in the Netherlands, and premiums under the General Old-Age Pensions Act.

(3) If the liability to taxation in virtue of Chapter I only existed during part of the calendar year, this part of the calendar year is substituted for the calendar year.

Article 39. (1) Sources of income in the Netherlands as referred to in Article 1, 2nd and Article 38, paragraph 2, are taken to comprise:

1st. An occupation or profession in the Netherlands comprising:

(a) Agricultural industries in so far as carried on in the Netherlands;

(b) Non-agrarian industries in so far as carried on through a permanent establishment or a permanent representative in the Netherlands, as well as appreciable shareholding, in the sense of Article 19, paragraph 2, in a company established in the Netherlands the capital of which is, in whole or in part, divided into shares in so far as these shares do not belong to trading assets;

(c) Independent professions in so far as carried on in the Netherlands through a permanent establishment;

(d) Employment in so far as it is carried out in the Netherlands or in so

(g) PROPERTY TAX ACT OF 27 SEPTEMBER 1892 ¹

Article 8 quarter. Exempt from the tax are the persons referred to in Article 33 of the Income Tax Act of 1914.²

This exemption does not apply to the property coming under Article 9 bis.³

The provisions of paragraphs 2 and 3 of that Article also apply to residents of the Netherlands.

(continued)

far as the proceeds of the employment are subject to wage tax (Articles 26, 26a, 26b and 27);

(e) Other occupations in the Netherlands in so far as they yield gratuities or similar remunerations received from third persons in connection with an employment and without the co-operation of the employer;

2nd. Items of property in the Netherlands:

(a) Real property situated in the Netherlands;

(b) The following items of movable property:

claims secured by mortgage on real property situated or established in the Netherlands;

claims to a share in the profits, as referred to in Article 31, paragraph 1, 1st, of a business or of an independent profession the seat of which is in the Netherlands;

shares, profit-sharing notes and debenture-bonds, not being trading assets, of companies established in the Netherlands, the capital of which is, in whole or in part, divided into shares as well as claims, not being trading assets, on such companies, in case the person receiving their net proceeds has an appreciable shareholding, in the sense of paragraph 2 of Article 19, in the company.

3rd. Claims to periodical payments by virtue of public law as referred to in Article 34, paragraph 2, 2nd., in so far as they are chargeable to a Netherlands public body or the General Civil Servants' Pension Fund.

¹ *Bulletin of Acts, Orders and Decrees No. 223.*

² This Article reads:

Article 33. Exempt from the tax are the diplomatic, consular and other representatives of foreign powers and the officials assisting them and persons living in the home of these representatives and officials and being in their employment, provided they are aliens and do not engage in any other occupation or profession in the Netherlands and on condition of reciprocity if in the State by which the representatives are employed, a tax on income or on property is levied.

³ This Article reads:

Article 9 bis. The persons coming under Article 2 and not residing in the Netherlands are liable to taxation on the basis of their net property, as defined in Articles 3 to 9 inclusive and computed as laid down in these Articles, it being understood that no property shall be taken into account other than:

1st. Real property situated or established in the Netherlands;

2nd. Claims secured by mortgage on real property situated or established in the Netherlands;

3rd. Items of property other than those mentioned under 1st and 2nd belonging to a business or a profession carried on in the Netherlands by the tax-payer—either personally or by means of an agent—it being understood that part of a business or a profession carried on in the Netherlands shall be regarded as a separate business or profession;

4th. Items of property accruing from money-lending *en commandite* in a business or profession carried on in the Netherlands and all other assets—

(h) PERSONAL PROPERTY AND RENTAL TAX ACT OF
21 DECEMBER 1950 ¹

Article 20. Not liable to pay this tax are:

(a) The diplomatic, consular and other representatives of foreign powers and the officials assisting them and persons living in the home of these representatives and officials and being in their employment, provided they are aliens and do not engage in any other occupation or profession in the Netherlands and on condition of reciprocity if in the State by which the representatives are employed, this tax or a similar tax is levied on the basis of the rental value and/or the value of the furniture;

(b) Those resident abroad, provided they do not occupy any premises in the Netherlands for more than three consecutive months.

(i) VEHICLE ROAD TAX ACT OF 30 DECEMBER 1926 ²

Article 6. (1) No tax is levied on:

(a) Motor-vehicles kept by diplomatic, consular and other representatives of foreign powers, by officials assisting them and living in the Netherlands and by persons living in the home of these representatives and officials and being in their employment and living in the Netherlands, provided they are aliens and do not engage in any other occupation or profession in the Netherlands.

(j) TURNOVER TAX ACT OF 9 DECEMBER 1954 ³

Article 24. Under the terms and with due observance of the regulations to be laid down by Us by general administrative order, exemption from turnover tax is granted for:

9. The delivery of goods in cases to be designated by Us by general administrative order, in which cases no turnover tax is levied on importation of these goods.

(continued)

other than securities — the proceeds of which consist, in whole or in part, of a share in the proceeds of such business or profession.

The deduction of the debts coming under Article 8 shall, as regards the tax-payers referred to in this Article, be restricted to:

1st. Debts secured by mortgage on real property situated or established in the Netherlands;

2nd. Other debts directly related to a business or a profession as referred to in 3rd of paragraph 1 or accruing from money-lending *en commandite* in a business or profession in the Netherlands.

For the purpose of this Article, any employment carried out or any business or profession carried on in the Netherlands only temporarily and for a period shorter than three months shall be left out of account.

¹ *Ibid.*, No. K 598.

² *Ibid.*, No. 464, as amended.

³ *Ibid.*, No. 533, as amended.

(k) DECREE OF 16 DECEMBER 1954 (REGULATIONS IMPLEMENTING THE
TURN-OVER TAX ACT OF 1954)¹

Article 22. The exemption referred to in Article 24, No. 9, of the Turn-over Tax Act shall apply to the deliveries of the following goods:

1. Goods intended for the official use of diplomatic and career consuls of foreign powers performing their duties in this country and of chancery officers attached to embassies and consulates in this country, provided they are aliens and do not engage in any other occupation or profession in the Netherlands and on condition of reciprocity; those who have lost their Netherlands nationality in virtue of Article 7, paragraph 4, of the Act of December 12, 1892 (*Bulletin of Acts, Orders and Decrees No. 268*) shall not be regarded as aliens, unless they possess a foreign nationality.

Article 23. (1) The exemption as regards the delivery of goods referred to in Article 22, paragraph 1, is granted in the way of a refund of tax to the diplomatic officers, career consuls and chancery officers.

(2) A refund is granted only for deliveries of goods which are registered on forms obtainable from the inspector.

(3) For deliveries of goods the value of which exceeds an amount of one hundred guilders, a refund is granted only if supporting vouchers are attached to the aforesaid registration forms.

(4) The registration forms mentioned in paragraph 2 and the vouchers referred to in paragraph 3 must be attached to the application for a refund and submitted to the inspector.

(5) The copy of the decision on the application for a refund is sent to the applicant together with the above vouchers.

(l) TARIFFS DECREE OF 19 DECEMBER 1947, A.O.D. H 438, CONTAINING PROVISIONS FOR THE IMPLEMENTATION OF THE CUSTOMS TREATY CONCLUDED BY THE GOVERNMENTS OF THE NETHERLANDS, BELGIUM AND LUXEMBURG IN LONDON ON 5 SEPTEMBER 1944, TOGETHER WITH THE SUBSEQUENT PROTOCOL AS APPROVED UNDER THE ACT OF 1 AUGUST 1947, A.O.D. H 282, AS AMENDED

EXEMPTION AND REFUND

Article 19. (1) Under the terms to be laid down by the Minister of Finance, full or partial exemption from import duties is granted for:

(g) Goods intended for the private use of diplomatic officers and career consuls performing their duties in this country, and of chancery officers attached to legations and consulates established in this country; provided they are aliens and do not engage in any other occupation or profession in the Netherlands, and on condition of reciprocity.

Private use comprises the use by dependents;

(h) Chancery requirements sent by or on behalf of foreign governments to consulates established in this country, on condition of reciprocity.

(2) For the purpose of the above, the condition of reciprocity shall be deemed to have been complied with if the foreign State grants the same

¹ *Ibid.*, No. 560, as amended.

exemption to the Netherlands, Belgium and Luxemburg, unless otherwise provided for in existing international treaties.

(3) The goods mentioned under (g) may also be wholly or partially exempt from special import duty and excise duty;

. . .

(m) ORDER No. 179¹ OF 28 MAY 1954, ISSUED BY THE UNDER-SECRETARY OF STATE FOR FINANCE, RELATING TO EXEMPTIONS FROM THE PROVISIONS OF THE TARIFFS DECREE OF 1947, AS AMENDED

. . .

Article 15. Section 1.

1. On condition of reciprocity, full exemption from import duty, special import duty, excise duty and turnover tax is granted in respect of goods intended for private use by diplomatic officers and career consuls performing their duties in this country, and by chancery officers attached to embassies, legations and consulates established in this country; provided they are aliens and do not engage in any other occupation or profession in the Netherlands.

2. Private use comprises the use by dependents as well as the use for official purposes by embassies and legations.

Section 2.

1. Section 1 applies if permission for duty-free importation has been granted before the importation of the goods. This permission is granted after the applicant has submitted a declaration stating his capacity and confirming that the goods are intended for his private use. This declaration shall contain a description of the goods in respect of which exemption is claimed, indicating the kind and quantity, and the number and marks of the packages.

2. If the goods are intended for a chancery officer attached to an embassy, legation or consulate, the declaration referred to in the previous paragraph must be certified by the head of the embassy, legation or consulate.

3. In the permit it may be stipulated that the exemption is granted on condition of re-exportation of the goods from the Netherlands, Belgium and Luxemburg. In that case a document is issued which must be cleared by re-exportation of the goods from the Netherlands, Belgium and Luxemburg within a specified period. If the document should not be cleared, the taxes mentioned in Section 1 become payable unless permission is given to export the goods within a period to be specified subsequently.

Section 3. If goods that have been imported free from duty and tax are, either temporarily or permanently, transferred or lent to third parties — not enjoying exemption — the taxes mentioned in Section 1 are payable by those to whom exemption has been granted.

Article 16. Section 1. On condition of reciprocity, full exemption from import duty and import tax is granted in respect of chancery requirements sent by or on behalf of foreign governments direct to their consulates established in this country.

¹ *Netherlands State Gazette No. 102 of 31 May 1954.*

Section 2. Section 1 applies if before the importation permission has been granted to import the goods free from duty and tax. This permission is granted after the head of the consulate in question has submitted a declaration in which he confirms that the goods are imported for use at the consulate. This declaration shall contain a description of the goods in respect of which exemption is claimed, indicating the kind and quantity, and the number and marks of the packages.

(n) MUNICIPAL CORPORATIONS ACT

Article 289. The provisions governing exemption from local taxes to be enjoyed by foreign envoys or consuls, or by persons attached to their legations or consulates, shall be laid down by Us.

(o) DECREE OF 13 MAY 1957 CONCERNING THE EXEMPTION OF REPRESENTATIVES OF FOREIGN POWERS AND OF REPRESENTATIVES AND OFFICIALS OF INTERNATIONAL ORGANIZATIONS FROM LOCAL TAXES

Article 1. (1) Exempt from the local taxes referred to in Article 2 are, within the limits laid down in that Article, diplomatic representatives, consular representatives of career and other representatives of foreign powers to be designated by Our Ministers of Home Affairs, Property Accretion and Industrial Organization and of Foreign Affairs, after consultation with Our Minister of Finance, provided:

(a) They are aliens;

(b) They are only employed in this country at an Embassy, Legation, Consulate or other Mission and do not carry on any profession or business in this country.

(2) Those who, in virtue of paragraph 4 of Article 7 of the Act of December 12, 1892 (*Bulletin of Acts, Orders and Decrees No. 268*) have lost their Netherlands nationality, shall not be regarded as aliens, unless they should possess a foreign nationality.

(3) The exemption of the representatives referred to in the first paragraph shall extend to the officials assisting them and to the persons in their service, to their wives and minor children by birth, minor children by marriage and minor foster children living in their home, provided they, too, meet the requirements of sub-paragraphs (a) and (b) of paragraph 1.

(4) The provisions of paragraph 3 shall only apply to the dependents of other representatives than diplomatic representatives if this has been declared to be the case by Our Minister of Foreign Affairs.

(5) No claim to exemption can be vindicated if Our Minister of Foreign Affairs has declared that there is no guarantee that the principle of reciprocity will be observed.

Article 2. The persons referred to in paragraph 1 of Article 1 shall be exempt from:

(a) Dog tax;

(b) Tax on theatrical performances and other entertainments given by them by way of cultural manifestations of or for disseminating knowledge about the country they represent, provided it is obvious that these entertainments are not given for gainful purposes other than those with a charitable or cultural end in view;

- (c) Fees charged by authorities;
- (d) Duties as referred to in paragraph 3 of Article 275 of the Municipal Corporations Act, with the exception of parking fees;
- (e) Taxes as referred to in Article 276 of the Municipal Corporations Act;
- (f) Taxes on insurance of goods against fire and similar taxes in cases where goods are not insured against fire;
- (g) The visitors' tax referred to under (m) of Article 277 of the Municipal Corporations Act;
- (h) Taxes on public announcements, but only if the announcements are visible on objects used by the Mission, the representative or his personnel;
- (i) Taxes as referred to in Article 288 of the Municipal Corporations Act;
- (j) Any other local taxes in respect of which Our Minister of Home Affairs, Property Accretion and Industrial Organization and of Foreign Affairs have declared that those persons can claim exemption from these taxes in virtue of international law or in accordance with international usage.

Article 3. If more than one person is liable to taxation on account of a theatrical performance or other form of entertainment, exemption as referred to in Articles 1 and 2 for one of the persons liable to taxation shall exempt the other assessable persons from taxation as well.

Article 4. Exemption from local surcharges on the main sum of real estate tax, personal property and rental tax and other taxes that have been legally declared to be liable to local surcharges is dependent on what is decided in this respect for the main sum.

Article 5. Our Ministers of Home Affairs, Property Accretion and Industrial Organization and of Foreign Affairs declare, after consultation with Our Minister of Finance, that the provisions of this Decree shall apply in whole or in part to other persons than those referred to in Article 1, provided these persons enjoy, as representatives or officials of international organizations and in virtue of international law or in accordance with international usage, such exemption from taxation as includes exemption from any local taxes.

- (p) CIRCULAR LETTER OF THE MINISTER OF THE INTERIOR OF 20 FEBRUARY 1953 CONCERNING EXEMPTION FROM STAMP DUTY AND FEES FOR COPIES OF AND EXTRACTS FROM CERTIFICATES OF BIRTHS, DEATHS AND MARRIAGES FOR FOREIGN CONSULS

At the request of my colleague, the Minister of Finance, I herewith inform you that in his opinion copies of and extracts from certificates of births, deaths and marriages required by foreign consuls in this country for administrative purposes may be issued free from stamp duty under paragraph 6 of Article 32 of the Stamp Act of 1917.

After due consideration I have come to the conclusion that the registrars of births, deaths and marriages may issue these copies and extracts duty free also at the direct request of the foreign consuls — consequently without the intermediary of the Ministry of Foreign Affairs — in virtue of the provisions of sub-paragraph 2 of paragraph 3 of Article 2 of the Act of April 23, 1879 (*Bulletin of Acts, Orders and Decrees No. 72*), regulating the levying of duty for acts performed by the registrar of births, deaths and marriages (amended

by the Act of June 20, 1913 (*Bulletin of Acts, Orders and Decrees No. 294*) and by the Act of December 29, 1933 (*Bulletin of Acts, Orders and Decrees No. 781*). The above-mentioned copies and extracts must be deemed to have been issued to the Ministry of Foreign Affairs.

I would request you to inform the registrars of births, deaths and marriages in your municipality accordingly.

(*q*) POPULATION REGISTRATION MANUAL

Below follows Section 1 of the Population Registration Manual, in which these persons and groups of persons have been summed up.

. . .
(*b*) The members of diplomatic missions and the clerical staff of those missions;

. . .
(*e*) Consular officers of career and honorary consular officers of foreign powers and commercial representatives not being members of diplomatic missions, including the clerical staff of the persons referred to under this paragraph;

. . .
(*g*) The wives and minor children (under 21), living in the Netherlands, of the persons referred to under (*a*) up to and including (*f*);

(*h*) the servants of:
. . .
members of diplomatic missions;

. . .
consular officers of career and honorary consular officers of foreign powers, including commercial representatives not being members of diplomatic missions;

. . .
Without prejudice to deviations in virtue of the provisions of paragraph 1 of Article 21 of the Decree, dependents of the servants of the persons referred to under (*h*) shall, subject to the provisions of Article 18 of the Decree, be registered in the Netherlands population registers.

NETHERLANDS ANTILLES

(*r*) SURVEY OF THE IMMUNITIES AND PRIVILEGES ENJOYED BY CONSULAR OFFICERS IN THE NETHERLANDS ANTILLES

1. In virtue of paragraph 11 of Article 127 of the General Import, Export and Transit Ordinance of 1908, no import duty is levied on chancery requirements sent by or on behalf of foreign governments to their consulates established in the Netherlands Antilles, provided the same exemption is granted in the country in question to the Netherlands consulates established there; including the goods for the personal use of the consuls of foreign

powers performing their duties in the Netherlands Antilles, and of the chancery officers attached to the consulates established in the Netherlands Antilles, provided these persons are aliens and do not carry on a business or profession and on condition of the reciprocity referred to above.

The term "personal use" is understood to include the use by dependents.

2. An exemption of a similar nature in connexion with spirits excise is regulated in paragraph 2 of Article 7 of the Spirits Ordinance of 1908, which reads as follows:

"Exempt from the excise are spirits intended for the personal use of the consuls of foreign powers performing their duties in this part of the Realm (read Netherlands Antilles), provided they are aliens and do not carry on a business or profession in this part of the Realm (read Netherlands Antilles) and on condition of Netherlands consular officials in the country in question being granted a similar exemption."

3. Furthermore, there is a specific personal exemption of the persons mentioned above from *Gebruiksbelasting* (i.e. Personal Property and Rental Tax), which reads:

"Exempt from the tax are: consuls and consular officials of foreign powers, provided they are aliens and do not carry on a business or profession in Curaçao. This exemption is granted only on condition of reciprocity, however."

4. With regard to Income Tax the following provisions apply to these persons:

"Exempt from the tax are the consular and other representatives of foreign powers, the persons assisting them and the persons living in their home and being in their employment; provided they are not Netherlands nationals and do not carry on a business or profession in Curaçao and on condition that, if in the State on behalf of which or for whose representative the services are performed, a tax on income or on property is levied, the consular and other representatives of the Netherlands, the persons assisting them and the persons living in their home and being in their employment are granted the same exemption in that State."

5. In addition, it may be observed that members of the diplomatic and consular corps and their dependents of countries with which diplomatic and/or consular relations are maintained, with the exception of honorary consuls, do not have to comply with the formalities required on temporary or permanent admission.

SURINAM

(s) PRIVILEGES AND IMMUNITIES GRANTED TO CONSULAR OFFICERS IN SURINAM

1. *Subparagraph b of paragraph 2 of Article 3 of the Tariffs Decree (Surinam Bulletin of Acts, Orders and Decrees 1940, No. 1)* provides:

"The Governor may grant exemption or restitution of import duty:

. . .

(b) In cases where international relations render this desirable."

By resolution of 14 April 1927, No. 1068 (*Surinam A.O.D. 1927, No. 25*) it was laid down by the Governor that:

“Exemption from import duty shall be granted in respect of goods intended for personal use by consular officers of career of foreign powers (including their dependents) *established in Surinam*, provided they are aliens and do not carry on a business or profession in Surinam and on condition of reciprocity, and in respect of the flags, escutcheons, insignia and office requirements imported by them and by other consular officers.”

2. *General Decree No. 1 of the Foreign Exchange Commission (Surinam State Gazette No. 81 of 23 September 1947)*, in which a general exemption from the obligation in Article 18 of the Foreign Exchange Regulations on the importation of goods is granted in respect of:

(b) Goods which are not subject to import duty because international relations render this desirable. This by way of dispensation from paragraph 1 of Article 18 of the Foreign Exchange Regulations of 1947 (*Surinam A.O.D. 1947, No. 136*), which provides that:

“the importation and exportation of goods shall be prohibited, unless a declaration as prescribed by the Foreign Exchange Commission and signed by or on behalf of the importer or exporter is submitted to the Revenue officers.”

3. *Article 1 of Royal Decree No. 38 of 13 June 1938*, containing regulations on admission to, establishment in and expulsion from Surinam (*Surinam Admission Decree of 1938 (Surinam A.O.D. 1938, No. 92)*), according to which:

“The provisions of this Decree do not apply to:

(a) Consular officials and their dependents;”

4. *Article 33 of the Income Tax Ordinance of 4 May 1921 (Surinam Bulletin of Acts, Orders and Decrees 1940, No. 20)*, which states:

“(1) Exempt from the tax are, on condition of reciprocity, consuls and consular officers of foreign powers who are of foreign nationality, provided they do not carry on any business or profession in the colony or engage in any other gainful occupation.

“(2) This exemption does not apply to:

1st. Profits derived from buildings and land situated in the colony;

2nd. Profits which are not derived from shares and which are acquired in virtue of a right to participate in the proceeds of any business or profession, the seat of which is in the colony and of any other business or profession carried on in the colony and to the extent carried on there.

“(3) Also to those living in the colony the provision of the last paragraph of Article 27 applies. This paragraph reads: ‘further, no abatement from the taxable income is allowed for the purpose of any taxes levied outside Surinam on profits derived in this country’.”

5. *Article 12 of the Ordinance of 14 December 1944*, concerning the levying of a “property tax” (*Surinam Bulletin of Acts, Orders and Decrees 1944, No. 185*), which provides:

“Exempt from the tax are the persons referred to in Article 33 of the Income Tax of 1921.”

6. *Article 2 of the Ordinance of 14 December 1944*, concerning the levying of statistical duty (*Surinam Bulletin of Acts, Orders and Decrees 1944, No. 188*), which provides that:

“No statistical duty is levied:

(a) On importation or exportation of:

1st. Goods intended for the private use of diplomatic officers and career consuls of foreign powers and of chancery officers attached to consulates in this country; provided they are aliens and do not carry on a business or profession in Surinam, and on condition of reciprocity.”

7. *Article 4 of the Ordinance of 13 December 1910* concerning the introduction of a tax on the rental value of buildings with the adjoining grounds (*Surinam Bulletin of Acts, Orders and Decrees 1948, No. 154*); which provides:

“Exempt from the tax are:

. . .

(d) Buildings with the adjoining grounds owned by foreign powers, in which the consulate is established or which serve to accommodate career consuls, on condition of reciprocity.”

8. *Article 3 of the Ordinance of 14 May 1956*, laying down new provisions for the levying of vehicle road tax (*Surinam Bulletin of Acts, Orders and Decrees 1956, No. 41*), which provides:

“By Government Decree, full or partial exemption from taxation may be granted under certain conditions for:

. . .

(b) Vehicles kept by diplomatic, consular and other representatives of foreign powers, by the officials assisting them and living in Surinam, and by their dependents, provided they are aliens and do not carry on a business or profession in Surinam, and on condition of reciprocity.”

NETHERLANDS NEW GUINEA

(t) TEXT OF THE LEGAL PROVISIONS AND REGULATIONS IN FORCE IN NETHERLANDS NEW GUINEA IN RESPECT OF PRIVILEGES AND IMMUNITIES GRANTED TO CONSULAR OFFICERS AND OTHER REPRESENTATIVES OF FOREIGN POWERS

1. *Article 17 (b) of the Admission Decree*. The provisions of this Decree do not apply to:

. . .

(b) Consular officers and their dependents.

2. *Article 4 (a) of the Income Tax Ordinance of 1954*. Exempt from the tax are:

(a) The consular and other representatives of foreign powers, the persons assisting them and the persons living in their home and being in their employment, provided they are not Netherlands subjects and do not engage in any other occupation or profession in New Guinea and on condition that, if in the State on behalf of which or for whose representative the services are performed, a tax on income or property is levied, the consular

and other representatives of the Netherlands, the persons assisting them and the persons living in their home and being in their employment are granted the same exemption in that State;

3. *Article 17 of the Capital Tax Ordinance of 1932.*

(1) Exempt from the tax are persons exempt from income tax.

(2) As regards consular and other representatives of foreign powers, the persons assisting them and the persons living in their home and being in their employment, this exemption does not extend to:

1st. Property situated or established in Indonesia which, under the provisions of the Civil Code, is real property or would have to be regarded as such on the basis of these provisions;

2nd. Claims secured by mortgage on real property situated or established in Indonesia, in the sense of the Civil Code;

3rd. Items of property accruing from money-lending *en commandite* in a business or profession carried on in Indonesia;

4th. The right to a share in the proceeds of a business or profession carried on in Indonesia.

(3) For the purpose of the provision under 4th of the second paragraph the right of participation in the proceeds of a business or a profession carried on in Indonesia only temporarily and for a period shorter than three consecutive months shall not be considered.

(4) The deduction under Article 10 shall be restricted to debts secured by mortgage on real property situated or established in Indonesia, in the sense of the Civil Code.

4. *Article 10 (c) of the Wage Tax Ordinance.* No tax is levied on:

(c) Wages due or paid by consular and other representatives of foreign powers — not being Netherlands subjects — on condition of reciprocity if the foreign power on behalf of whose representative the exemption is granted levies a tax on wages, income or property; the exemption is not granted for wages due or paid by the above-mentioned representatives in virtue of any other gainful occupation;

5. *Article 4 of the Foreign Exchange Ordinance of 1940.*

The provision of Article 8 and other provisions to be designated by or on behalf of the Governor-General shall not apply to the consular and other representatives of foreign powers and the officials assisting them, provided they are aliens and are not engaged in any other occupation or profession, on condition of reciprocity, if in the State of which these representatives are national similar regulations obtain.

6. *Article 1 (a) and (b) of the Order of the Acting Governor of Netherlands New Guinea of 14 December 1955, No. 319.*

First: To grant exemption from import duty for:

(a) Goods intended for the private use by career consuls performing their duties in Netherlands New Guinea and for the chancery officers attached to consulates established in Netherlands New Guinea, provided they are aliens and do not engage in any other occupation or profession in Netherlands New Guinea, and on condition of reciprocity where Netherlands consular officers are concerned;

(b) Chancery requirements sent by or on behalf of foreign governments to consulates established in Netherlands New Guinea, on condition that

Netherlands consulates established in the countries in question are granted a similar exemption.

7. *Article 4 of the Import Ordinance.*

(1) Without prejudice to other legal provisions, no licence as referred to in paragraph 1 of Article 3 is required for the importation of:

- (a) Goods the value of which is less than f. 500,— per consignment;
- (b) Goods forming part of furniture and personal effects or of an estate;
- (c) Goods imported by passengers and obviously intended not to be put on the market;
- (d) Imported goods which, after having been registered as such, are re-exported, provided the goods were never withdrawn from supervision by the Officers of Imports, Exports and Excises;
- (e) Goods that are obviously intended to be re-exported;
- (f) Books and periodicals;
- (g) Goods imported by or on behalf of the Government, the Royal Netherlands Army or the Royal Netherlands Navy.

(2) The Director may order that for goods other than those mentioned in the preceding paragraph no licence shall be required.

(3) In the Director's order, which shall be published in the Netherlands New Guinea State Gazette, the goods in respect of which exemption has been granted shall be accurately described.

Order of the Director of Finance of 1 September 1954 (Article 1)

First: That without prejudice to other legal provisions, no licence as referred to in the first paragraph of Article 3 of the Import Ordinance (*Bulletin of Acts, Orders and Decrees of Netherlands New Guinea 1953, No. 5*) shall be required for:

- (a) The chancery requirements sent by foreign governments to their consulates in New Guinea;
- (b) Goods used for public worship as, for instance, Communion sets, altar cloths, Communion wine, chasubles and other garments worn by priests when officiating, candles, furniture for churches, Bibles and hymn-books;
- (c) Goods intended for hospitals and polyclinics as, for instance, medicines, dressings, chemicals, dispensers' requirements, instruments, hospital requirements, laboratory requirements and radiography equipment;
- (d) Goods having a scientific or cultural object, being the goods which are exempt from import duty under paragraph 1 (d) of Article 2a of the Netherlands Indies Tariffs Act;
- (e) Goods, not being tobacco, beverages or table delicacies, etc., intended for religious associations and similar organizations, for the Red Cross Society and for other charitable institutions, provided these goods are gifts to such associations, organizations and institutions and are intended to be distributed in this country free of charge;
- (f) Parcels sent by charitable institutions outside New Guinea and intended for members of the Royal Netherlands Navy and the Royal Netherlands Army, for schools, associations, etc.

Import Ordinance (Article 3, paragraph 1)

Without prejudice to other legal provisions, the importation of goods is only permitted by a general or special written licence granted by or on behalf of the Director.

8. *Article 31, II, No. 61 of the Stamp Ordinance of 1921.*

No stamp-duty is payable for:

Documents drawn up in this country with the co-operation of foreign consuls, with the exception of documents for which stamp-duty is due in virtue of other Chapters.

9. *Article 7 (7) of the Provisions laid down by the Military Billeting Ordinance of 1940.*

Consular officers of foreign powers — with the exception of Netherlands subjects who are honorary consuls of a foreign power — are exempt from having military personnel billeted upon them.

10. *Article 1 of the Ordinance of the Netherlands Indies Bulletin of Acts, Orders and Decrees of 1919, No. 154.*

A. To the “Regulations concerning the inspection and registrating of horses” laid down by Article 2 of the Ordinance of 28 April 1916 (*A.O.D. No. 355*), a new article shall be added after Article 7, reading:

“*Article 8.* The provisions of this Ordinance shall not apply to the consular officers of foreign powers and to their horses.”

B. To the “Regulations concerning the inspection and registration of motor vehicles for war service” laid down by Article 1 of the Ordinance of 21 December 1917 (*A.O.D. No. 743*), a new article shall be added after Article 15, reading:

“*Article 15 a.* The provisions of this Ordinance shall not apply to the consular officers of foreign powers and to their motor vehicles.”

C. To subparagraph III of paragraph 1 of Article 6 of the “Regulations concerning the measures to be taken in the interests of the country’s defence in case of war with a foreign enemy or in case of the threat of war” laid down by Article 1 of the Ordinance of 22 July 1916 (*A.O.D. No. 518*), the following paragraph shall be added:

“However, as far as requisitioning is concerned, with the exception of horses and motor vehicles of consular officers of foreign powers.”

11. *Circular letter of the Government Secretary of 19 January 1928, No. 104/A2.*

As it has been found that not all public registrars always act in compliance with the instructions contained in my circular letter of 5 July 1909, No. 1702 (*Annex to Bulletin of Acts, Orders and Decrees No. 7152*), I have the honour, by order of the Governor-General, again to bring to your attention that, in case of death in this country of aliens of whatever nationality who are subject to the provisions governing Europeans, the registrar shall always send without delay a copy of the death certificate drawn up in due form (marked “for official use”) and free of charge (i.e. exempt from stamp-duty) to his divisional Head, for transmission to the consular representative in question.

Regulations concerning the equivalence of the ranks of the consular officers of foreign countries admitted in the Netherlands Indies and the ranks of the Officers of the Royal Netherlands Navy and of the Civil Servants in the Netherlands Indies.

A Consul-General ranks above a Captain, but below a Captain who is a Divisional Commander and below Governors and Residents or Senior Officers charged with civil administration with the rank and title of Governor or Resident, in the district administered by these Civil Servants or Senior Officers.

A Consul ranks between a Captain and a Commander and above Assistant Residents or Regional Secretaries, provided they are not heads or acting heads of a district, and an Assistant Resident shall, when head of a district, have precedence in the district administered by him; a Vice-Consul ranks below a Lieutenant-Commander and therefore also below Assistant Residents or Regional Secretaries; a Consular Agent ranks below a Lieutenant and below inspectors and assistant inspectors, when heads of a district; to a consular officer temporarily holding a higher rank than his actual rank, and to a private individual temporarily acting as a consular officer, the same regulations apply as to the functionaries they are acting for.

If, however, a Vice-Consul or a private individual acts for a Consul-General, he is considered to hold the rank of Consul; a Consul-General, Consul or Vice-Consul, having received a military rank from his Government, ranks immediately below Netherlands officers of the same rank, unless he is entitled to a higher rank in virtue of the regulations concerning equivalence of ranks set forth above.

New Zealand ¹

(a) NOTE OF 22 NOVEMBER 1955 RECEIVED FROM THE MINISTER OF
EXTERNAL AFFAIRS OF NEW ZEALAND

“ It should be noted that one enactment of the Parliament of the United Kingdom of Great Britain and Northern Ireland, the Diplomatic Privileges Act 1708,² may also be in force in New Zealand. The applicability of that Statute to New Zealand can be determined only by the decision of a Court of Law; and no case in which the question was in issue has ever arisen for decision in this country . . . ”

(b) DIPLOMATIC IMMUNITIES ACT, 1952

2: In this Act, unless the context otherwise requires, “ Chief representative ” means a person, whether he is known by the title of High Commissioner or by another title, who is recognized by the Government of New Zealand as the chief representative in New Zealand of a country to which this Act applies;

“ Envoy ” means the envoy of a foreign sovereign Power accredited to Her Majesty in New Zealand;

“ Minister ” means the Minister of External Affairs.

3. The countries to which this Act applies are the United Kingdom, Canada, Australia, the Union of South Africa, India, Pakistan, Ceylon, Southern Rhodesia, and the Republic of Ireland:

Provided that regulations may be made under this Act—

(a) Declaring that any country specified in the regulations, being a country within the Commonwealth, is a country to which this Act applies;

(b) Providing that this Act shall cease to apply to, or modifying this Act in its application to, any country on the ground that that country is failing

¹ The texts of enactments reproduced under New Zealand have been provided by the Minister of External Affairs of New Zealand.

² See *infra*, under the United Kingdom.

to accord treatment to New Zealand corresponding to the treatment that New Zealand accords to that country under this Act.

4. A chief representative shall be entitled to the like immunity from suit and legal process, and the like inviolability of residence, official premises, and official archives, as are accorded to an envoy.

5. A person who is:

- (a) A member of the official or domestic staff of a chief representative; or
- (b) A member of the family of a chief representative; or
- (c) A member of the family of a member of the official staff of a chief

representative,

shall be entitled to the like immunity from suit and legal process as would be accorded to him if the chief representative were an envoy:

Provided that where a person who is a member of the official or domestic staff of a chief representative is a New Zealand citizen and not a citizen of the country concerned, or is not resident in New Zealand solely for the purpose of performing his duties as such member—

(i) That person shall be entitled to immunity under this section only in respect of things done or omitted to be done in the course of the performance of his duties as a member of that staff;

(ii) A member of the family of that person shall not, by reason only of his being a member of that family, be entitled to immunity under this section.

6. Regulations may be made under this Act conferring on—

(a) Persons in the service of the Government of any country to which this Act applies; or

(b) Persons in the service of the Government of any territory for whose international relations the Government of any such country is responsible— (other than persons on whom immunity is conferred by the foregoing provisions of this Act), holding such offices or classes of offices as may be specified in that behalf in the regulations, the like immunity from suit and legal process and the like inviolability of official premises and official archives as are accorded to consular officers of a foreign sovereign Power.

7. If in any proceedings any question arises whether or not any person is entitled to immunity from suit and legal process under any provision of this Act or of any regulations made under this Act, a certificate issued by the Minister stating any fact relevant to that question shall be conclusive evidence of that fact.

8. (1) A chief representative may waive any immunity or inviolability conferred by or under this Act on himself or on a member of his official or domestic staff, or on a member of his family or of the family of a member of his official staff.

(2) Any person may waive any immunity or inviolability conferred on him by or under regulations made for the purposes of section six of this Act.

9. This Act shall not affect any legal proceedings begun before the commencement of this Act.

10. The Governor-General may from time to time, by Order in Council, make regulations for any purpose for which regulations are contemplated or required by this Act, and may make all such other regulations as he thinks necessary or expedient for the purpose of giving effect to the provisions of this Act and for the due administration thereof.

11. (1) This Act shall be in force in the Cook Islands, the Tokelau Islands, and Western Samoa.

(2) This Act is hereby declared to be a reserved enactment for the purposes of section nine of the Samoa Amendment Act 1947.

(c) THE FINANCE ACT (No. 2) 1943, AS AMENDED UP TO 1951

PART I. PUBLIC REVENUES AND LOANS

7. *Power to grant exemptions from taxation to diplomatic and other representatives in New Zealand.* (1) Notwithstanding anything to the contrary in any Act, the Minister of Finance may from time to time wholly or partly exempt from any public or local tax, duty, rate, levy, or fee any of the following persons:

(b) A diplomatic representative of any foreign State;

(d) A foreign Consul or Consular Officer who is resident in New Zealand solely for the purpose of performing his official duties;

(f) A representative or officer of the Government of any country outside New Zealand, or of any provisional Government, national committee, or other foreign authority recognized by His Majesty the King, if he is temporarily resident in New Zealand in accordance with any arrangement made with the Government of New Zealand;

(g) A member of the official or domestic staff of any person to whom any of the foregoing paragraphs applies, if he is resident in New Zealand solely for the purpose of performing his duties as such member;

(h) The wife and any dependent child or children of any person to whom any of the foregoing paragraphs applies.

(1A) The powers conferred on the Minister of Finance by subsection one of this section shall be deemed to include power to exempt from stamp duty under the Stamp Duties Act 1923 any instrument or class of instruments to which any of the persons referred to in that subsection is a party.

(d) BRITISH NATIONALITY AND NEW ZEALAND CITIZENSHIP ACT, 1948

PART II. NEW ZEALAND CITIZENSHIP

Citizenship by Birth or Descent

6. Subject to the provisions of this section, every person born in New Zealand after the commencement of this Act shall be a New Zealand citizen by birth:

Provided that a person shall not be a New Zealand citizen by virtue of this section if at the time of his birth—

(a) His father possessed such immunity from suit and legal process as is accorded in New Zealand to an envoy of a foreign sovereign Power accredited to His Majesty, and was not a New Zealand citizen;

. . . .

(e) THE IMMIGRATION RESTRICTION ACT, 1908

Prohibited Immigrants

13. *Exceptions to operation of this Part of Act.* This Part of this Act does not apply to —

. . . .

(g) Any person duly accredited to the Government of New Zealand by or under the authority of the Imperial or any other Government.

. . . .

(f) ALIENS ACT, 1948

. . . .

PART II. GENERAL

. . . .

18. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the intent and purpose of this Part of this Act.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

. . . .

(d) Exempting or providing for the exemption of any aliens or classes of aliens from the provisions of this Part of this Act, either wholly or partly, and either unconditionally or upon or subject to such conditions as may be prescribed by the regulations.

. . . .

(g) ALIENS REGULATIONS, 1948

. . . .

3. In these regulations, unless inconsistent with the context,

“The said Act” means the Aliens Act, 1948;

“Consular officer” includes Consul-General, Consul, Vice-Consul, Pro-Consul, and Consular Agent;

“Diplomatic representative” includes Ambassador, Envoy, Minister, and Chargé d’Affaires, and includes also any person holding office under the United Nations or under a specialized agency brought into relationship with the United Nations to whom the Minister accords diplomatic status for the purpose of these regulations.

4. The following aliens and classes of aliens shall be exempt from the provisions of Part II of the said Act: —

(a) Diplomatic representatives accredited to His Majesty or to the Government of New Zealand;

(b) Consular officers holding His Majesty's exequatur, or to whom provisional recognition has been accorded, or in respect of whom an application for recognition is pending, other than consular officers of a country between which and His Majesty a state of war for the time being exists;

(c) Any person present in New Zealand and the members of any Commission so present on behalf of the Government of a foreign country, if such person or Commission has been duly recommended by that Government to the good offices of the Government of New Zealand and the recommendation has been acceded to;

(d) Any person present in New Zealand as a delegate to a conference and with the approval of the Minister of Internal Affairs;

(e) Any member of the staff of a person exempted under the preceding paragraphs of this regulation who has been sent to New Zealand by the Government of the country concerned, or by the secretariat of the United Nations or a specialized agency, for the purpose of serving on that staff;

(f) Any personal servant of a person exempted under the preceding paragraphs of this regulation so long as the servant is employed exclusively in that capacity;

Provided that every exemption hereby conferred shall hold good only so long as the person in question continued to hold a status or condition by virtue of which he is entitled to exemption.

Nicaragua ¹

(a) DECREE OF 4 MARCH 1953 ²

CHAPTER VII

Classes of diplomatic officers and precedence

Article 43. The Government of Nicaragua recognizes the following classes of diplomatic agents:

1. Papal Nuncio and Ambassador Extraordinary and Plenipotentiary.
2. Papal Internuncio and Envoy Extraordinary and Minister Plenipotentiary.
3. Minister Resident.
4. Chargé d'Affaires *ad hoc*.
5. Chargé d'Affaires *ad interim*.
6. Minister Counsellor.
7. Counsellor.
8. First Secretary.
9. Second Secretary.
10. Third Secretary.
11. Attaché.

Article 44. The precedence among chiefs of mission shall be governed by the order of enumeration in article 43. Precedence within each class shall be determined by seniority, according to the date of presentation of credentials.

¹ The texts of enactments reproduced under Nicaragua have been provided by the Ministry of Foreign Affairs of Nicaragua. Translation by the Secretariat of the United Nations.

² *Ceremonial Diplomático*, Managua, D.N., 1955.

The senior chief of mission in the highest class shall be the doyen of the diplomatic corps, without prejudice to the prerogatives traditionally granted by Nicaragua to the Papal Nuncio.

Article 45. The precedence among the staff of diplomatic missions shall be governed by the order of enumeration in article 43 and, within each class, by the precedence accorded to the chief of the particular mission. For the purposes of the Diplomatic List, as well as at functions attended by the staff of only one diplomatic mission, or by every mission as a body with its entire staff, the order of precedence among the members of the mission may, however, be that requested by the chief of the mission concerned.

Article 46. At all official functions, solemnities and generally all ceremonies to which it is invited by or through the Ministry of Foreign Affairs, the diplomatic corps shall occupy a special position and shall be placed, as the case may be, in order of precedence.

Article 47. If a special mission attends an official function, such mission shall take precedence over the resident diplomatic corps.

Article 48. At banquets given by the President of the Republic, the President of the National Congress and the President of the Supreme Court of Justice shall be placed above the Minister of Foreign Affairs; the doyen of the diplomatic corps shall take the place immediately below the latter. At banquets given by the Minister of Foreign Affairs, that Minister shall have the place of honour and the President of the National Congress and the President of the Supreme Court of Justice shall be placed above the doyen of the diplomatic corps. Members of the diplomatic corps shall be placed below the doyen and in the seating arrangement shall alternate with Cabinet Ministers, the equivalence of rank to be observed as far as possible.

CHAPTER VIII

Privileges, immunities and courtesy rights enjoyed by diplomatic agents

Article 54. Diplomatic agents enjoy in Nicaragua all the privileges, immunities and courtesy rights recognized by international law.

Article 55. Immediately after a diplomatic agent has been officially received, the Ministry of Foreign Affairs shall deliver to him an identity card or booklet which constitutes evidence of his status *vis-à-vis* the Nicaraguan authorities.

Article 56. If, in a civil or criminal case, a statement is required from a diplomatic agent, the competent court shall address a communication to him through the Ministry of Foreign Affairs, specifying the points on which information is desired and requesting the diplomatic agent in question to give particulars in writing concerning the said points.

Article 57. Subject to reciprocity, diplomatic agents enjoy exemption from customs duties in respect of objects imported for the official use of the diplomatic mission or for the personal use of diplomatic officials and their families

Article 58. Subject to reciprocity, the premises of a diplomatic mission, if they are the property of the Government concerned, shall be exempt from all taxation. Nevertheless, charges made for services rendered by the State, the National District or State agencies shall be payable.

Article 59. Subject to reciprocity, diplomatic agents enjoy exemption from postage to the extent permitted by the relevant international conventions.

Article 60. Diplomatic missions enjoy, in addition to the foregoing immunities, such immunities as the Ministry of Foreign Affairs may grant to them by virtue of reciprocity in recognition of the immunities granted by the country concerned to Nicaraguan diplomatic agents.

CHAPTER XIII

Consuls

Article 74. Consuls of foreign Powers do not enjoy any of the special prerogatives specified in this enactment with respect to diplomatic agents. The exequatur granting recognition to a Consul only authorizes him to maintain with the Nicaraguan authorities such relations as are required for the effective performance of his duties. All matters concerning the functions of consuls shall be dealt with by the Vice-Minister of Foreign Affairs or by the head of the Consular Section.

(b) CODE OF CIVIL PROCEDURE

Depositions of witnesses

Article 1295. Any person who is resident in the territory of Nicaragua, whether he is a national or alien, and who is not incapacitated is under a duty to obey a summons of the court directing him to appear for the purpose of testifying, to the best of his knowledge, in response to questions put to him, if he is summoned in conformity with the procedure prescribed by statute.

Article 1296. The following persons are exempted from the duty to obey a summons of the court, but not from the duty to testify:

(4) Diplomatic representatives accredited to the Nicaraguan Government;

Article 1297. If it should be necessary to take testimony from any of the persons mentioned in sub-paragraphs 1, 2, 3, 5 and 6 of the preceding article, the Judge shall take testimony at the person's home or office. The same procedure shall be followed in any case in which such a person is to be examined or is required to give an affidavit or to swear to his signature on a private document not connected with judicial proceedings.

Article 1298. If it should be necessary to obtain testimony from a diplomatic representative accredited to the Nicaraguan Government, the court shall address a communication to him specifying the points on which testimony is required and requesting him to give particulars concerning these points in writing. If it should be necessary to obtain a diplomatic representative's reply to statements made by others or his attestation of his signature on a private document, the Judge shall go to the said representative's house or office to take his testimony.

Article 1299. If a diplomatic representative accredited to the Government of the Republic is a Nicaraguan national, he shall not be entitled to the privileges granted by the preceding articles.

Article 1300. The provisions of article 1298 do not extend to the members of the consular corps, who shall be required to give their testimony in the same way as other persons, except as otherwise provided by treaty.

Norway¹

- (a) ORDINANCE OF 8 OCTOBER 1708 TO PROVIDE THAT THE PERSONS, DOMESTIC SERVANTS AND GOODS OF FOREIGN MINISTERS MAY NOT BE ARRESTED OR SEIZED FOR DEBT

Whereas many petitions and requests have at sundry times been received for authority to levy distress on the goods and effects of a foreign Minister present at Court for a debt incurred by him in this Kingdom; and whereas there have even been cases in which the furniture of a foreign Minister has actually been seized for debt upon his departure, an occurrence which might well lead to confusion and misunderstanding as the result of some person unwittingly impugning the character of a foreign Minister;

Now, therefore, in order that any happening of this sort may be prevented and that His Majesty's desire may be known to his subjects, it is hereby ordered:

That distress shall in no case be levied on the person, domestic servants or goods of such foreign Minister for any debt which he may have incurred in His Majesty's realms and lands either while present there or upon his departure therefrom.

- (b) RESCRIPT OF 8 APRIL 1771 RESPECTING THE LIBERTIES WHICH ALL FOREIGN AGENTS AND CONSULS SENT TO THESE REALMS SHALL ENJOY AND THE OBLIGATIONS TO WHICH THEY SHALL BE SUBJECT

Every foreign Agent or Consul sent to His Majesty's realms and lands shall, in accordance with the custom which has always been observed both here and abroad, be immune, as regards his own person while carrying on his consular business, from Norwegian jurisdiction, and shall enjoy all the advantages, privileges and exemptions attaching to his office; nevertheless, if he possesses a house or other property in Norway, he shall in every case be under a duty to bear and be responsible for the charges attaching thereto, and if he engages in trade or business, he shall be subject in respect thereof to the Constitution and the laws of the country on the same footing as His Majesty's own subjects, and hence also to the local authority of the place where he is resident.

¹ The texts of Laws and Regulations reproduced under Norway have been provided by the Permanent Representative of Norway to the United Nations. Translation by the Secretariat of the United Nations.

(c) GENERAL PENAL CODE OF 22 MAY 1902

CHAPTER 8

Offences against the independence and security of the State

Article 95. (Any person who in Norway publicly insults the flag or national emblem of a foreign State or is an accessory to such an offence shall be punished by a fine or by detention or imprisonment for a term not exceeding one year).

The same penalty shall be incurred by any person who in Norway insults a foreign State by using violence against, or acting in a threatening or insulting manner towards, a representative of such State, or by forcing his way into, or damaging or befouling, any building or room used by such representative, and by any person who is an accessory to such an offence.

Article 96. (With regard to foreign Heads of State, articles 102 and 103 shall apply, *mutatis mutandis*. The same applies to articles 99, 100 and 101, in so far as the foreign Head of State in question is staying in Norway with the consent of the Norwegian State authorities).

In the case of offences of the kind referred to in chapters 21, 22 and 23¹ which are committed against the representative of a foreign State while he is staying in Norway, the ordinary penalties of detention or imprisonment may be increased by as much as one half.

(d) RURAL TAX ACT OF 18 AUGUST 1911

CHAPTER 2

Personal liability to taxation

Article 28. His Majesty shall determine the extent to which the diplomatic and consular officials of foreign Powers, together with their families and households, shall be exempt from income and property taxes.

(e) URBAN TAX ACT OF 18 AUGUST 1911

CHAPTER 1

Immovable property tax

Article 7. The immovable property tax shall not be payable in respect of:

(f) Immovable property of the embassy or legation or of a consulate of a foreign State, on condition that such State grants a like exemption.

CHAPTER 2

Personal liability to taxation

Article 23. His Majesty shall determine the extent to which the diplomatic and consular officials of foreign Powers, together with their families and households, shall be exempt from income and property taxes.

¹ Offences against personal freedom, life, limb and health, and slander.

(f) ROYAL DECREE OF 7 SEPTEMBER 1939

In virtue of article 28 of the Rural Tax Act and article 23 of the Urban Tax Act, new regulations on the tax exemption of diplomatic and consular officials of foreign Powers are hereby issued . . . :

I

Income and property tax payable to the State or a commune may not be levied on:

1. The ambassadors, ministers, chargés d'affaires (permanent or *ad interim*), embassy or legation counsellors, embassy or legation secretaries, attachés and embassy or legation chaplains of foreign Powers, together with their spouses and children who are members of their household;
2. Career consuls and consular officials, together with their spouses and children who are members of their household;
3. Honorary consuls, in respect of the income received by them in that capacity;
4. Subordinate employees of the embassy or legation of a foreign Power or of a consulate under a career consular official, in respect of the income received by them in that capacity; provided that the said exemption shall not apply in the case of employees who are Norwegian nationals;
5. Servants employed by the diplomatic officials referred to in paragraph 1; provided that the said exemption shall not apply to servants who are Norwegian nationals.

II

The exemption from income and property tax referred to under I above shall not apply to such property connected with or such income derived from the sources mentioned in article 15 of the Rural Tax Act and article 10 of the Urban Tax Act,¹ paragraph (c), as is irrelevant to the taxpayer's diplomatic or consular status.

Pakistan

(a) NOTE OF 8 MAY 1956 RECEIVED FROM THE PERMANENT REPRESENTATIVE OF PAKISTAN TO THE UNITED NATIONS

. . . the Government of Pakistan has not yet formulated any rules or regulations on the subject. Foreign diplomatic and consular officers in Pakistan are, however, accorded, on a basis of reciprocity, the immunities, privileges and exemptions which are admissible to them under international law and accorded by most of the countries of the world. Briefly they are as follows:

1. INVIOABILITY

Foreign diplomats and the members of their staff, provided they are nationals of the appointing State, are inviolable in Pakistan. This protection does not only extend to their own persons but also to the members of

¹ Income from business activities of various kinds and from property in Norway.

their families, to their official residences, their personal effects and other belongings, and the archives of the missions and also to intercourse with their home state by any lawful means of communication.

Inviolability of Consular premises, Consular archives and official consular correspondence.

Consular officers *de carrière* are not ordinarily compelled to produce their official documents or to give evidence in a court of law with regard to matters contained in their official correspondence or consular archives.

2. EXEMPTION FROM CRIMINAL JURISDICTION

Foreign diplomats, members of their families and their staff, provided they are the nationals of the appointing State, are immune from criminal jurisdiction of the Government of Pakistan, and as such their persons and their official and residential premises are recognized as extraterritorial. The police authorities of Pakistan will not, ordinarily, exercise jurisdiction over them nor arrest them, search their person or their houses, unless the immunity is waived by the Head of the Mission or by the person concerned. Consular officers *de carrière*, though given every consideration consistent with the course of justice, do not enjoy any personal immunity except for acts done by them in their official capacity.

3. EXEMPTION FROM CIVIL JURISDICTION

(1) Foreign diplomats and members of their families are exempt from the jurisdiction of the Civil Courts in Pakistan except only:

- (a) Where this immunity is waived by the Head of the Mission, or
- (b) Where the person concerned gives his active or tacit consent to the Court to proceed in a Civil action against him, or
- (c) Where the diplomat himself brings an action against any person in a Civil Court of Pakistan. But even in such cases the foreign diplomat concerned may claim immunity at any stage of the case before the execution of the judgment.

(2) Foreign diplomats and members of their families are also exempt from appearance in Court to give evidence.

4. EXEMPTION FROM INCOME TAX, CUSTOMS INSPECTION, ETC.

Foreign diplomatic and Consular officers *de carrière*, provided they are nationals of the appointing State and are not engaged in any other business, profession or trade, are exempt from payment of the following taxes and duties on a basis of reciprocity:

1. Income Tax on their official emoluments.
2. On first arrival or on return from leave they are exempt from baggage examination and duty. They are, however, required to sign a baggage declaration. Baggage also includes household furniture, motor cars and fire-arms of non-prohibited bore.
3. Duty on official supplies.
4. Motor taxation, driving licence fee and fee for the renewal of registration certificate.
5. Wireless licence fee.

6. Sales tax on articles of considerable value if imported from abroad or purchased from bonded stock.
7. Licence fee for fire-arms of non-prohibited bore.
8. Stamp duty on transactions made in the name and on behalf of the Government represented by the diplomatic and Consular officers.
9. Octroi charges.
10. Home tax on official or residential accommodation of the diplomatic and Consular officers.
11. Cycle tax provided the cycle is purchased in the name of the diplomatic or Consular officer and used for official work.

Peru

- (a) DECREE NO. 69 OF 18 FEBRUARY 1954 CONCERNING THE PRIVILEGES GRANTED BY THE GOVERNMENT TO FOREIGN DIPLOMATIC AND CONSULAR AGENTS AND TO OFFICIALS OF INTERNATIONAL ORGANIZATIONS AND AGENCIES ¹

PART I. GENERAL PROVISIONS

Article 1. The privileges may be restricted to the extent necessary for the purpose of bringing them into conformity with the rules of strict reciprocity or they may be extended by agreement with other Governments.

Article 2. The Ministry of Foreign Affairs has authority to grant or to withhold reciprocity in any case in which reciprocity is relied on for the purpose of claiming privileges other than those referred to in this Decree or more extensive than those recognized herein.

Article 3. In the absence of an agreement of the nature mentioned in article 1, members of the Peruvian diplomatic service who are accredited to foreign Governments shall not ask those Governments for any privileges greater than those granted by Peru to the diplomatic and consular representatives of the Governments in question.

Article 4. For the purpose of ensuring the proper application of this Decree and preventing the improper enjoyment of the privileges for which it provides, every head of mission shall, at the end of the year, communicate to the Ministry of Foreign Affairs a note, bearing his signature, containing the list of the members of the staff of the Embassy or Legation under his authority, with particulars of their rank, and of the consulates which the State represented by him has established in Peru. The same procedure shall be observed in the reporting of subsequent changes in the said list.

An analogous procedure shall be observed by the senior officer in charge of an international organization or agency in respect of the staff thereof who perform functions in Peru.

Article 5. The Ministry of Foreign Affairs shall, in due course, transmit to the Ministry of Finance and Trade a list of the persons to whom, pursuant to this Decree, the exemptions provided for in articles 9 and 10 apply, and notify the said Ministry of any subsequent changes in the said list.

¹ Text of Decree provided by the Minister for External Relations of Peru. Translation by the Secretariat of the United Nations.

PART II. DIPLOMATIC MISSIONS

Article 6. So far as diplomatic missions are concerned, and for the purposes of this part of this Decree, the following persons shall be deemed to be entitled to privileges:

(a) Heads of mission and the members of the diplomatic staff of a mission, and the members of their families, which latter term shall mean the wife, unmarried daughters and sons under the age of majority if they are living with the agent in question and are not engaged in a gainful occupation;

(b) The official staff, consisting of the non-Peruvian agents and employees who are appointed and remunerated by the accrediting State and are engaged exclusively in the service of the mission in question;

(c) The personal staff of the head of mission, composed of his private secretaries and domestic servants, provided that they are of foreign nationality and were not residents of Peru at the time of their appointment.

TITLE I. CUSTOMS EXEMPTIONS

Article 7. Articles imported for the official use of an Embassy or Legation, in quantities commensurate with its requirements, shall be exempt from the payment of import and supplementary duties.

This provision shall also apply to a vehicle imported for the purpose aforesaid.

Article 8. The luggage and furniture which a diplomatic agent brings with him for his installation shall be exempt from inspection, appraisal and the payment of import and supplementary duties.

This provision shall also apply to effects which come in as "unaccompanied luggage", provided that they arrive in the country within the three months following the agent's arrival.

Article 9. If the item imported is a vehicle, the formalities of appraisal, clearance and waiver shall be compulsory.

Article 10. In addition to the cases provided for in article 8, the provisions governing appraisal, clearance and waiver of import and supplementary duties shall apply to every item which a diplomatic officer imports for his personal use or for that of a member of his family during his official stay in the country. If the item imported is a vehicle, the luxury tax which would have been chargeable shall also be waived, and the provisions of the article next following shall not apply in respect of the said tax.

Article 11. The amount of the import and supplementary duties shall be set off against the import quota specified under article 22 for the corresponding diplomatic category.

Article 12. This set-off shall not be applied if the said duties relate to a vehicle which a diplomatic agent brings with him when he arrives in the country for the first time or which he imports within three months immediately thereafter.

Article 13. The provisions of article 10 shall be extended to articles which arrive in the country within the three months following the diplomatic agent's final departure, provided that the application relating thereto had been made previous to the termination of his duties in Peru.

Article 14. Throughout the duration of his official assignment in Peru and until his departure from Peru a diplomatic agent may export, freely and

without examination, the luggage and furniture owned by him. This exemption shall also remain in effect for a period of not more than three months after his departure, but after the expiry of this period the luggage and furniture shall be liable to examination.

Article 15. For the purpose of obtaining the admission, duty-free, of the luggage and furniture which a diplomatic agent brings with him, or the free export thereof when he leaves, the head of mission shall submit an application in writing to the Ministry of Foreign Affairs, announcing the arrival or departure of the agent or of members of his family; the Ministry shall duly convey this information to the customs authorities for appropriate action.

Article 16. For the purposes of the free entry or export of effects sent as "unaccompanied luggage", the customs authorities shall require the production of the special permit to be issued by the Ministry of Foreign Affairs upon the application signed by the head of mission.

Article 17. The permit specified in the previous article shall be embodied in a resolution of the Ministry of Finance and Trade if more than 40 kg of unused Peruvian silverware are to be exported.

Article 18. The waivers provided for in article 10 shall be granted only if the shipping documents, consular invoice, bill of lading or postal declaration are addressed to the diplomatic agent from the country of origin of the articles in question, and if his personal import allowance has not been exhausted.

Article 19. Applications for this purpose shall be submitted to the Ministry of Foreign Affairs in a signed note, together with the special forms which the said Ministry shall distribute to the heads of mission. The origin, number, mark and weight of the packages and the quantity, type and value of the items contained therein shall be specified on the forms. The declaration shall be made in duplicate over the signature and seal of the head of mission and shall be presented together with the certificate of consumer goods issued by the customs authorities.

Article 20. If the item imported is a vehicle there shall be submitted, in addition, the certificate relating to the luxury tax and, in the case of articles under monopoly (such as tobacco, alcohol and matches), the certificate of charges issued by the corresponding Monopoly.

Article 21. Upon completion of the prescribed formalities, the Ministry of Foreign Affairs may grant a provisional authority of delivery, pending the issue of the corresponding waiver.

Article 22. The import and supplementary duties in respect of which members of the foreign diplomatic corps may obtain waivers shall be limited in any one year to the following amounts:

	<i>Soles</i>
Ambassadors and Ministers Plenipotentiary	50,000.00
Ministers-Counsellors and Titular Chargés d'Affaires	40,000.00
Counsellors, Advisers, First Secretaries, Military, Naval and Air Attachés	30,000.00
Second and Third Secretaries, Attachés and Assistants	20,000.00

The import quota granted to any particular agent shall automatically expire on 31 December of each year; if a quota has not been fully

exhausted, the credit balance may not be carried over to the following year, not may waivers of duties be set off against the quota for the following year.

Article 23. These accounts shall be kept up to date by the Ministry of Foreign Affairs and the resolutions relating to waivers shall, upon approval by the Office of the Auditor General of the Republic, be transmitted to the Customs Department for the purpose of registration.

Article 24. The Ministry of Foreign Affairs shall transmit to the Ministry of Finance and Trade a monthly statement of the waivers it has granted.

Article 25. The facilities for the shipment of luggage may likewise be granted to foreign diplomats accredited to other States when in transit through Peruvian territory.

Article 26. For the purposes of this Decree, the term "vehicle" means motorcar, passenger limousine, light truck, jeep, motorcycle and similar self-propelling machine.

Article 27. If a vehicle is transferred within four months from the date of issue of the waiver relating thereto, the charges, including the luxury tax, from the payment of which the diplomatic agent in question was exempted, shall be recovered in full.

After the four months have elapsed, the total amount shall be reduced by one-twentieth for each month thereafter, in such manner that after the expiry of two years from the date on which the free entry of the vehicle was authorized the liability for the said charges is extinguished.

Article 28. An exception to this rule shall be made only in the case of the transfer of a vehicle as between members of the foreign diplomatic corps or other persons entitled to an import franchise in respect of vehicles.

Article 29. In any case in which charges are payable by reason of the sale of a vehicle, the head of mission shall deliver a note bearing his signature to the Ministry of Foreign Affairs certifying that the amount has been paid into the Deposit and Consignment Office to the order of the General Directorate of Finance.

Article 30. Upon completion of this formality the Ministry of Foreign Affairs shall advise the General Directorate of Traffic of the transfer and the latter shall thereupon be authorized to enter the vehicle in the appropriate register.

Article 31. A member of the official staff of a diplomatic mission may, subject to examination, bring in free of import and supplementary duties the luggage and furniture which he brings with him for his initial installation and effects which come as "unaccompanied luggage" within the three months following his arrival in the country, the benefit of this provision not being applicable to any effects other than those expressly referred to above.

Article 32. A member of the official staff shall enjoy the same export facilities as a diplomatic agent.

Article 33. A vehicle which a member of the official staff brings in for his own use shall be subject to the normal charges.

Article 34. For the purposes of articles 31 and 32, the formalities specified in articles 15 and 16 shall be applicable.

Article 35. A member of the personal staff of a head of mission may bring in freely the luggage and furniture intended for his own use which he

brings with him when he arrives in the country either with the head of mission or alone, provided that the head of mission has given previous notice of his arrival.

TITLE II. TAX EXEMPTIONS

Article 36. With respect to immovable property used as the official residence of a diplomatic mission, exemptions from the following taxes shall be granted in the cases specified:

(a) Fifty per cent of the tax payable by the transfer or on the selling price of property (*alcabala de enajenaciones*), if the transferor is a foreign Government;

(b) The tax on capital gains from the transfer of immovable property, if the transferor is a foreign Government;

(c) The registration fee on such a transfer;

(d) The municipal betterment tax, if the immovable property is owned by a foreign Government;

(e) The residential property tax, if the immovable property is owned by a foreign Government;

(f) Street lighting, street cleaning and public parks taxes, if the immovable property is owned, or is leased for the aforesaid purpose, by a foreign Government.

The exemptions specified above shall not extend to immovable property acquired or leased by a diplomatic officer for his private residence.

Article 37. A diplomatic officer accredited in the Republic may be exempted from the payment of the following taxes in the circumstances described below (but not otherwise):

(a) Income tax on emoluments, salaries and allowances received in connexion with his post;

(b) Duties on tobacco, alcoholic beverages, matches and other Government monopoly goods imported by him;

(c) Taxes on bills for board and lodging at hotels and inns;

(d) Stamp duties on receipts and other documents issued in connexion with his responsibilities;

(e) Duties on tickets, obtained in connexion with his responsibilities, for travel by himself or his family, it being understood that this provision does not render inapplicable the prevailing rates payable for such travel;

(f) Licence fees on his own and official embassy or legation vehicles.

Article 38. The official staff of a foreign diplomatic mission and the personal staff of a head of mission shall be exempt from the payment of income tax on the emoluments, salaries and allowances received by them in connexion with their posts.

TITLE III. MOTOR VEHICLE NUMBER PLATES

Article 39. The use of diplomatic number plates shall be reserved exclusively for motor-cars and station wagons owned by missions or diplomatic agents of missions.

Article 40. Vehicles of other types owned by missions or diplomatic officers shall bear ordinary number plates.

Article 41. The Ministry of Foreign Affairs may furnish a person covered by article 39 with not more than two sets of diplomatic number plates.

Article 42. The foregoing limitation shall not apply to heads of mission in special cases in which exceptions are shown to be justified.

TITLE IV. DRIVING PERMITS

Article 47. A diplomatic agent who wishes to drive a motor-car or other vehicle must be in possession of an ordinary driving licence. By courtesy, this licence shall be granted free of charge by the General Directorate of Traffic at the request of the Ministry of Foreign Affairs, the only formality required being the presentation of a similar licence issued by another State or of the "international driving permit".

In the absence of such a document, the officer concerned must satisfy the requirements laid down by the General Directorate of Traffic for the sole purpose of demonstrating his skill in the operation of a motor vehicle.

The relevant application must be made by the head of mission.

Article 48. The facilities granted under the foregoing article shall be restricted to the diplomatic agent, his wife and unmarried daughters over the age of eighteen years, and may not be extended to other members of the household.

TITLE V. SPECIAL IDENTITY PAPERS

Article 49. For the purposes of this Decree the Ministry of Foreign Affairs shall issue identity papers of the following types:

(a) Booklets; (b) Identity cards.

Article 50. At the signed request of a head of mission the Ministry of Foreign Affairs shall furnish a diplomatic agent and his wife with diplomatic identity booklets; it shall issue identity cards to other members of his immediate family who are his dependants and also to those members of his official staff, their wives, unmarried daughters and sons under age who are part of his household and are not engaged in gainful occupations.

Article 51. The Ministry of Foreign Affairs shall also issue identity cards to the domestic staff of a head of mission, if he so requests. However, the members of the families of such staff shall be subject to the normal regulations applicable to aliens.

Article 52. The Ministry of Foreign Affairs shall keep a record of the special identity papers issued by it pursuant to this Decree, and shall require the return of such papers when the holders cease to discharge their responsibilities.

Article 53. Except as provided in article 65, persons who are entitled under this Decree to special identity papers shall be exempt from aliens' registration formalities.

PART III. CONSULAR ESTABLISHMENTS

Article 54. With respect to consular establishments and for the purposes of this part, the following persons are eligible for privileges:

(a) Consular agents *de carrière*, which expression means consuls, vice-consuls and permanent civil servants of the sending State who are not authorized to engage in any gainful business or occupation other than their official activities, as well as the members of their families, which expression

means the wife, unmarried daughters and sons under age of any such agent who live with him and are not engaged in any gainful occupation;

(b) Honorary agents, which expression means agents who are not Peruvian nationals and who may lawfully carry on, in addition to their official activities, some gainful occupation in the Republic, it being immaterial whether or not in fact they carry on such an occupation;

(c) Administrative employees, who are required to devote the whole of their time to official administrative duties and who are nationals of the State that appoints and remunerates them.

TITLE VI. CUSTOMS EXEMPTIONS

Article 55. Articles imported by a consulate for its official use, in quantities commensurate with its requirements, shall be admitted by the Peruvian customs authorities free of import and supplementary duties.

Article 56. The luggage and furniture accompanying an agent *de carrière* or administrative employee of a consulate for his installation shall not be subject to inspection, appraisal, or liable to import and supplementary duties.

This provision is also applicable to effects coming as "unaccompanied luggage", provided that they enter the country within three months after the arrival of the person concerned.

Article 57. Throughout the duration of his official assignment in Peru and for three months after he has ceased to discharge his official responsibilities an agent *de carrière* or administrative employee shall be entitled to the benefit of a waiver of customs duties for the purpose of shipping abroad luggage and furniture owned by him.

Article 58. Vehicles of any kind imported by the staff of a consulate or vehicles consigned to a consulate may enter duty-free only if there is an agreement to that effect.

Article 59. The grant of consular privileges and exemptions shall be subject to the requirements and formalities laid down in part II for similar situations. The relevant applications must be made in a note signed by the head of the diplomatic mission concerned. In the absence of diplomatic representation, the application must be signed by the senior consular agent in charge.

TITLE VII. TAX EXEMPTIONS

Article 60. The exemptions referred to in article 36 with respect to immovable property used as the official residence of a diplomatic mission shall apply *mutatis mutandis* to immovable property used for consular offices.

Article 61. Consular agents *de carrière* shall enjoy the exemptions which under article 37 are extended to diplomatic agents, with the exception of the exemptions specified in paragraphs (b) and (c) thereof.

Article 62. Honorary consuls and administrative employees shall be exempt from taxes on salaries, emoluments and allowances received in compensation for consular services.

TITLE VIII. MOTOR VEHICLE NUMBER PLATES

Article 63. Any vehicle owned by a consular agent *de carrière* or by his Government and used for the official purposes of the consulate shall bear

ordinary number plates, which shall be issued in accordance with articles 45 and 46.

TITLE IX. IDENTITY PAPERS

Article 64. The Ministry of Foreign Affairs shall issue, upon application by the head of the diplomatic mission concerned, consular identity booklets to career officers and their wives, and identity cards to other members of their families, to honorary staff and their wives, and to administrative employees and the members of their immediate families.

Article 66. Honorary staff shall be subject to aliens' registration formalities.

Philippines¹

- (a) REPUBLIC ACT NO. 75 OF 21 OCTOBER 1946 (AN ACT TO PENALIZE ACTS WHICH WOULD IMPAIR THE PROPER OBSERVANCE BY THE REPUBLIC AND INHABITANTS OF THE PHILIPPINES OF THE IMMUNITIES, RIGHTS, AND PRIVILEGES OF DULY ACCREDITED FOREIGN DIPLOMATIC AND CONSULAR AGENTS IN THE PHILIPPINES)

Section 1. Any person who shall falsely assume and take upon himself to act as a diplomatic, consular, or any other official of a foreign government duly accredited as such to the Government of the Republic of the Philippines with intent to defraud such foreign government or in such pretended character shall demand or obtain, or attempt to obtain from any person or from said foreign government or the Government of the Philippines, or from any officer thereof, any money, paper document, or other thing, of value, shall be fined not more than five thousand pesos, or shall be imprisoned for not more than five years, or both, in addition to the penalties that may be imposed under the Revised Penal Code.

Section 2. Any person, other than a diplomatic or consular officer or attaché, who shall act in the Republic of the Philippines as an agent of a foreign government without prior notification to, and registration with, the Secretary of Foreign Affairs shall be fined not more than five thousand

¹ The texts of Laws and Regulations reproduced under the Philippines have been provided by the Secretary of Foreign Affairs of the Philippines to the United Nations.

In his letter of 20 December 1955, the Secretary of Foreign Affairs stated that: "In addition to the applicable texts of the aforesaid Philippine laws and regulations on "diplomatic intercourse and immunities", attention is invited to the provision of Section 3, Article II of the Constitution of the Philippines which reads as follows: "The Philippines . . . adopts the generally accepted principles of international law as part of the law of the Nation," and to the provision of Section 10 (7), Article VII of the same Constitution, which reads as follows: "The President shall have the power . . . and with the consent of the Commission on Appointments, he shall appoint ambassadors, other public ministers and consuls. He shall receive ambassadors and other public ministers duly accredited to the Government of the Philippines."

pesos, or imprisoned not more than five years, or both, aside from other penalties that may be imposed by law.

Section 3. Any person, who with intent to deceive or mislead, within the jurisdiction of the Republic, wear any naval, military, police, or other official uniform, decoration, or regalia of any foreign state, nation or government with which the Republic of the Philippines is not at peace, or any uniform, decoration or regalia or nearly resembling the same as to be calculated to deceive, unless such wearing thereof be authorized by such state, nation, or government, shall, upon conviction, be punished by a fine not exceeding two hundred pesos or imprisonment not exceeding six months, or by both such fine and imprisonment.

Section 4. Any writ or process sued out or prosecuted by any person in any court of the Republic of the Philippines, or by any judge or justice, whereby the person of any ambassador or public minister of any foreign state, authorized and received as such by the President, or any domestic or domestic servant of any such ambassador or minister is arrested or imprisoned, or his goods or chattels are distrained, seized, or attached, shall be deemed void, and every person by whom the same is obtained or prosecuted, whether as party or as attorney, and every officer concerned in executing it, shall, upon conviction, be punished by imprisonment for not more than three years and a fine of not exceeding two hundred pesos in the discretion of the court.

Section 5. The provisions of section four thereof shall not apply to any case where the person against whom the process is issued is a citizen or inhabitant of the Republic of the Philippines, in the service of the ambassador or a public minister, and the process is founded upon a debt contracted before he entered upon service; nor shall the said section apply to any case where the person against whom the process is issued is a domestic servant of an ambassador or a public minister, unless the name of the servant has, before the issuing thereof, been registered in the Department of Foreign Affairs, and transmitted by the Secretary of Foreign Affairs, to the Chief of Police of the City of Manila, who shall upon receipt thereof post the same in some public place in his office. All persons shall have resort to the list of names so posted in the office of the Chief of Police, and may take copies without fee.

Section 6. Any person who assaults, strikes, wounds, imprisons or in any other manner offers violence to the person of an ambassador or a public minister, in violation of the law of nations, shall be imprisoned not more than three years, and fined not exceeding two hundred pesos, in the discretion of the court, in addition to the penalties that may be imposed under the Revised Penal Code.

Section 7. The provisions of this Act shall be applicable only in cases where the country of the diplomatic or consular representative adversely affected has provided for similar protection to duly accredited diplomatic or consular representatives of the Republic of the Philippines by prescribing like or similar penalties for like or similar offenses herein contained.

(b) CHAPTER III OF THE FOREIGN SERVICE REGULATIONS OF THE PHILIPPINES, DEALING WITH THE IMMUNITIES, POWERS, AND PRIVILEGES OF DIPLOMATIC AND CONSULAR REPRESENTATIVES

SECTION I. DIPLOMATIC IMMUNITY

Note 1. *Diplomatic Immunity not to be Waived.* The immunity from the jurisdiction of the country to which a diplomatic representative is accredited, which is accorded under the law of nations to said diplomatic representative, his official staff and household, and the exemption of premises occupied in an official diplomatic capacity, shall not be waived except by consent of the Secretary of Foreign Affairs.

Note 2. *Immunity against Service Process.* A diplomatic representative cannot be sued in a civil action, prosecuted or punished in a criminal action, or compelled to testify in the country to which he is accredited. This personal immunity extends to members of his official staff and of his household, with the possible exception of employees or servants who are subjects or citizens of the country of his sojourn. Diplomatic representatives should, when requested, furnish the local government with a list of the members of their households, including hired servants, with a statement of the age and nationality of each.

Note 3. *Exemption from Military Services not to be Claimed for Native Employees or Servants.* A diplomatic representative should not request exemption for a native employee or servant who is claimed by the government of the foreign country for military service.

Note 4. *Inviolability of Premises Occupied in Representative Capacity.* Premises, which are occupied by a diplomatic representative and members of his staff, either as offices or residences, the goods contained therein, and the records and archives of the mission are inviolable. Such premises cannot be entered or searched and neither can the goods, records and archives be detained by local authorities even under process of law.

Note 5. *Private Property not Exempt from Process.* If an officer holds, in a foreign country, real or personal property in a personal as distinguished from an official capacity, such property may be subject to the local laws.

Note 6. *Immunities Accorded Bearers of Despatches.* When so documented, couriers and bearers of despatches employed by a diplomatic representative in the service of his government are privileged persons, so far as is necessary for their particular service, whether in the state to which the representative is accredited or in the territory of a third state with which the government is at peace.

SECTION 2. CONSULAR RIGHTS AND PRIVILEGES

Note 1. *Duty of Consular Officer to Protest.* After assuring himself that such action is well founded, a consular officer shall protest to the appropriate local official any infringement of the rights and privileges necessary to carry out the duties of his office which are secured to him under treaty and the law of nations. He shall also protest the infringement of any rights and privileges conceded by treaty, custom, or local law.

Note 2. *Immunities Secured to Consular Officers Under Public Law and Treaties.* Consular officers shall familiarize themselves with rights and privileges they are entitled to under the laws of the country of assignment and under the

applicable provisions of treaties or conventions as well as Departmental instructions.

The following immunities are usually secured to consular officers in most countries either by reason of public law or by treaty with the country to which the officer is assigned:

- (a) Exemption from arrest except for crimes under local law.
- (b) Exemption from service on juries, in the militia, and from other public duties.
- (c) Inviolability of the archives and official property of his office from seizure or examination.
- (d) Inviolability of consular dwelling house and exemption from military billeting. These privileges should not be claimed, however, for employees or servants who are subjects of the country to which the consular officer is assigned.

Note 3. *Privileges of Consular Agent.* The privileges and exemptions of a consular agent are restricted, generally, to these necessary to carry out the duties of his office.

SECTION 3. EVASION OF JUST OBLIGATIONS PROHIBITED

A diplomatic representative or consular officer shall not avail himself of the protection afforded by reason of his official position to evade the settlement of just obligations.

Note 1. *Department to be Informed Concerning Complaints Entered against Officers and Employees of the Foreign Service.* It is desired that there be no cause for just criticism of an officer or employee of the Foreign Service. On the other hand, there should be no unwarranted waiver of immunities or privileges accorded by custom, law, or treaty. Officers and employees of the Foreign Service shall, therefore, inform the Department of any litigation in which they become involved in the courts of foreign countries and of any unusual occurrence or incidents that may give rise to litigation or complaint. If litigation has been instituted, the report shall include a complete statement of the charges, copies of papers served in connexion with the proceedings, and a statement of the steps taken to dispose of the case amicably.

SECTION 4. ASYLUM

Note 1. *Asylum.* A diplomatic representative or consular officer may not extend asylum to persons outside of his official or personal household.

(a) *Involuntary Refuge.* The extension of refuge to persons outside the official or personal household of a diplomatic or consular officer can only be justified on humanitarian grounds. Diplomatic and consular officers may afford refuge to uninvited fugitives whose lives are in imminent danger from mob violence but only during the period active danger continues. Refuge must be refused to persons fleeing from the pursuit of the legitimate agents of the local government. In case such persons have been admitted, they must be either surrendered or dismissed from the mission or consulate.

SECTION 5. CUSTOMS COURTESIES

Note 1. *Customs Courtesies.* Since customs courtesies are accorded by the Philippines to foreign diplomatic representatives and consular officers on a

reciprocal basis, diplomatic and consular officers of the Philippines shall acquaint themselves with pertinent treaty provisions and with the local laws and regulations prescribed in each case and shall be governed accordingly.

(a) Customs courtesies extended to representatives and officials of foreign governments.

(1) *Baggage and effects of foreign diplomatic representatives and members of the official staff of a foreign mission exempt from customs examination.* The baggage and effects of foreign ambassadors, ministers, chargés d'affaires, diplomatic secretaries, and military, naval and other attachés to foreign missions are normally admitted without examination by the customs of the Philippines, although the right to examine exists. The passage of such persons through the ports of the Philippines shall be facilitated by every proper means.

(b) *Foreign Representatives and Officials Entitled to Free Entry of Baggage.* The following representatives of foreign governments, their families, suites, and servants are entitled to the free entry of their baggage and effects:

(1) Ambassadors, ministers, chargés d'affaires, diplomatic secretaries, naval, military, and other attachés of embassies and legations, commissioners and consular officers accredited or assigned to this government or *en route* to or from other countries to which assigned or accredited.

(2) Other high officials of foreign governments and such distinguished foreign visitors as may be designated by the Department of Foreign Affairs.

Note 2. *Submission of Requests for Customs Courtesies.* A request for the extension of the customs courtesies referred to in note 1 of this section should be submitted to the Department of Foreign Affairs through the appropriate foreign mission in Manila. The request should specify the port of arrival, identify the vessel or aircraft on which the representative is travelling and state the scheduled date of arrival. It should be submitted as far in advance as possible.

Diplomatic and consular officers of the Philippines should not request the extension of customs courtesies for foreign representatives or citizens of prominence unless friendly relations between the Philippines and the government to which they are accredited or assigned would be furthered thereby. Such requests should set forth the reasons why special treatment should be accorded.

Note 3. *Free Entry of Baggage and Effects Subsequent to Arrival of Foreign Representative.* If the baggage and effects of any of the persons enumerated in note 1 (b) this section, shall arrive after him, such baggage and effects should be passed duty free upon satisfactory proof of ownership. (See note 5, this section.)

Note 5. *Regulations Governing Importation of Merchandise by Foreign Representatives.*

(a) *Merchandise Addressed to Chiefs of Missions Exempt from Inspection.* Articles addressed to ambassadors, ministers, and chargés d'affaires representing governments in the Philippines shall be delivered to the addressees without customs inspection.

(b) *Merchandise Addressed to Other Foreign Representatives Subject to Customs Inspection.* Sealed and unsealed articles addressed to foreign representatives, other than chiefs of mission, shall be subject to the usual customs treatment.

(c) *Duty on Articles Imported by Foreign Diplomatic Representatives.* Duties on articles intended for the personal use of foreign diplomatic representatives, members and attachés of foreign missions, and members of their families shall not be collected, provided application is made to the Department of Foreign Affairs in each instance and reciprocity is accorded similar officers of the Philippines.

A similar privilege may be accorded to consular officers and other representatives of foreign governments, provided that a treaty or a special agreement to this effect exists between the Philippines and the countries which they represent.

(d) *Official Importations Exempt from Payment of Duty.* Importations for the official use of foreign representatives shall be admitted free of duty provided the government of the foreign representative shall accord similar privileges to the Philippines.

(e) *Violation of Theory of Reciprocity.* The rights, privileges, or immunities in favour of foreign diplomatic and consular representatives provided in these regulations shall be conditioned on reciprocity or the recognition of similar rights, privileges and immunities in favour of diplomatic and consular representatives of the Philippines by the foreign government concerned. Where foreign governments are not disposed to grant to diplomatic and consular officers of the Philippines customs courtesies and privileges similar to those enjoyed by their representatives in the Philippines, this discrepancy should be brought to the attention of the foreign government by the diplomatic representative of the Philippines in the country, who may state that, if the foreign government is not disposed to grant the same exemptions and courtesies to our representatives abroad as are granted the representatives of the government concerned in the Philippines, the Government of the Philippines will, of necessity, have to reconsider its position in regard to such exemptions. At the same time, a report in the premises should be submitted to the Department of Foreign Affairs.

Note 6. *Submission of Reports by Consular Officers Regarding Duties on Official Importations.* Consular officers should submit reports whenever any change occurs in the law of the country of a consular officer's official residence or in the practice of the national or local authorities which might affect the importation of merchandise for the official use of representatives of the Philippines abroad. These reports should set forth in detail any requirements which may be necessary to meet in order to procure the free entry of official importations in accordance with the customs laws and regulations, as follows:

- (a) When supplies may be addressed directly to the offices for which intended.
- (b) When they should be addressed to missions or consular offices.
- (c) Documents.
- (d) To whom documents should be sent.

Where duties are laid on the importation of articles, the officer in charge should, when practicable, take up the matter with the proper authorities in an attempt to have instructions issued to the collectors of customs which would permit the prompt delivery of such supplies duty free. Reports of any action taken should be submitted to the mission, the supervising consul general, if there be one, and the Department of Foreign Affairs.

Note 7. *Requests for Customs Courtesies in Foreign Countries to be Submitted Through Appropriate Philippine Mission.* Diplomatic and consular officers of the Philippines desiring the extension of customs courtesies, either in the country to which they are accredited or assigned or in a third country through which they are passing, should submit their requests for such courtesies through the appropriate Philippine mission. In countries where there is no Philippine mission such requests should be submitted to the American mission.

Note 8. *Entry of Diplomatic and Consular Officers of the Philippines Entitled to Free Entry in Philippine Ports.* Philippine diplomatic and consular officers, returning from their missions abroad, are usually granted free admission of their household effects and personal property. This is a courtesy, not a right. Such courtesies need not be requested in advance.

SECTION 6. TAX EXEMPTIONS

Note 1. *Tax Exemptions.* Since the taxation of representatives of foreign governments is largely regulated by reciprocal agreements between nations, diplomatic and consular officers shall acquaint themselves with pertinent treaty provisions and with the local laws and regulations in each instance and shall conform thereto.

Note 2. *Tax Exemptions Granted Representatives of Foreign Governments in the Philippines.* The portion of these regulations with respect to the payment of taxes on (a) income (wages or salary), (b) imported articles for official or personal use and (c) property for embassy, legation or consulate purpose are still in the process of preparation.

Note 3. *Tax Exemptions Granted Representatives of the Philippines in Foreign Countries.* Diplomatic representatives of the Philippines are generally exempt from the payment of local taxes, except on personally owned property or businesses. Unless exempt by treaty, consular officers are subject to local taxes in the city and country in which they reside. As a matter of courtesy and comity, they are often exempt from the payment of a personal tax.

Note 4. *Submission of Report Containing Tax Information.* Detailed reports shall be submitted to the Department showing the foreign countries which tax or exempt from taxation Filipino officers and employees.

(a) *Taxes Imposed*

- (1) Upon salaries;
- (2) Upon private incomes;
- (3) On any other basis in case of:
 - (i) Filipino diplomatic and consular officers;
 - (ii) Filipino employees of Philippine diplomatic and consular offices;
 - (iii) Philippine consular agents who are not Filipino citizens;
 - (iv) Employees in the Philippines diplomatic and consular offices who are either citizens of the country in which the office is situated or citizens of a third country.

(b) *Any Additional Pertinent Information.* Every change in the law of the country of a consular officer's official station or in the practice of the national or local authorities, shall be reported promptly by the Department.

Poland¹

I. IMMUNITY FROM JURISDICTION, INVIOABILITY OF
PERSONS AND PREMISES

(a) CODE OF CRIMINAL PROCEDURE OF 19 MARCH 1928²

Article 27. (1) The following persons shall be exempt from the jurisdiction of Polish criminal courts:

- (a) Diplomatic envoys of foreign States accredited to Poland;
- (b) Members of the diplomatic staffs of diplomatic missions of foreign States;
- (c) Members of the family of any person specified in sub paragraphs (a) and (b) living under his roof;
- (d) Other persons entitled to extritoriality by virtue of any statute, agreement or universally recognized international custom.

(2) The provisions of paragraph (1) shall not apply to Polish nationals and shall in no way preclude the right of retaliation.

(3) Court communications addressed to any persons specified in paragraph (1) shall be transmitted through the Minister of Justice.

Article 135. A search of the office or residence of any person specified in article 27 may be conducted only with the consent of the competent diplomatic envoy.

Article 521. The president of a court may direct any person who is in possession of a copy of a lost document to deliver such copy to the court; where necessary he may order the seizure thereof. The provisions of articles 129 to 144 shall apply as appropriate.

(b) CODE OF CIVIL PROCEDURE OF 1 DECEMBER 1932³

Article 5. (1) Subject to reciprocity, the following persons may not be summoned to appear before a court:

- (1) Diplomatic envoys of foreign States accredited to Poland;
- (2) Members of the diplomatic staffs of diplomatic missions of foreign States;
- (3) Members of the family of any person specified in sub paragraphs (1) and (2) living under his roof;

¹ The following compendium of provisions of Polish law concerning the privileges and immunities of foreign diplomatic and consular missions and their staffs (in force 25 April 1956) has been provided by the Permanent Mission of the Polish People's Republic to the United Nations. Translation by the Secretariat of the United Nations.

² Consolidated text of 2 September 1950 (*Dziennik Ustaw*, 1950, No. 40, item 364), as amended by the Decree of 29 October 1952 (*ibid.*, 1952, No. 44, item 302).

³ Consolidated text of 25 August 1950 (*ibid.*, 1950, No. 43, item 394), as amended by the Decree of 23 April 1953 (*ibid.*, 1953, No. 23, item 90).

(4) Other persons entitled to extritoriality by virtue of any statute, agreement or universally recognized international custom.

(2) A person specified hereinbefore may nevertheless be subject to the jurisdiction of the court:

(1) If he voluntarily surrenders to such jurisdiction;

(2) In cases relating to any undertaking owned by him and situated in Poland;

(3) In cases relating to rights in respect of immovable property situated in Poland, with the exception of actions for the recovery of rent of premises used for official purposes.

. . .

Article 158. The method of serving court documents on a person resident abroad, or on a person in the diplomatic service of a foreign State or any person living under his roof, shall be specified in an Order of the Ministers of Justice and of Foreign Affairs.

. . .

Article 557.

. . .

(2) No measure of execution may be carried out without the consent of the competent diplomatic envoy in any building wholly occupied by a diplomatic mission on the official premises of a diplomatic mission, or in the residence of any person who by virtue of the provisions of this Code may not be summoned to appear before a court. Where any doubt arises in the application of this provision, the court shall request the opinion of the Minister of Justice.

. . .

Article 568. (1) Execution proceedings shall be discontinued, either wholly or in part:

. . .

(4) If it is established that execution is barred by reason of some attribute of the matter or debtor concerned;

. . .

Article 576. (1) No measure of execution may be taken against any person who, in the interests of international relations, may not, under the provision of this Code, be summoned to appear before a court, except in a case where such person is subject to jurisdiction.

(2) No execution may be levied on any property used for official purposes and no measure of constraint may be taken against the person of the debtor.

(3) Where any doubt arises in the application of these provisions, the court shall request the opinion of the Minister of Justice.

. . .

Article 841. (1) Attachment of the person shall be effected by the removal of the debtor to premises appointed for that purpose; such persons

shall be kept apart from persons deprived of liberty by virtue of penal or administrative proceedings.

Article 844. Attachment of the person shall not be applied against the following:

- (1) Persons exempt from the jurisdiction of Polish courts.

(c) ORDER OF THE MINISTER OF JUSTICE OF 15 DECEMBER 1932

(INSTRUCTION TO BAILIFFS)¹

(2) In this Instruction, articles cited from the Code of Civil Procedure are designated by Arabic numerals, while those cited from the provisions for the application of the law relating to judicial execution procedure, are designated by Roman numerals.

(15) In addition to the provisions of articles 557 to 584 laying down certain limitations on execution proceedings, the bailiff shall also have due regard to the provisions of any special acts and instruments indicating the conditions under which execution may be levied on specified property therein (Art. IV (2)).

(16) In cases where the consent of the competent diplomatic envoy must be obtained, the Bailiff shall apply to the registrar of the court (art. 557 (2)).

(17) If any person who by virtue of the provisions of the Code of Civil Procedure (art. 5 (1)) may not be summoned to appear before a court is a sub-tenant or a sub-lessee of part of an apartment, the limitation on execution prescribed by articles 557 (2) and 576 shall apply solely to the premises occupied by such person.

Where any doubt arises in the application of the aforementioned provisions, the bailiff shall seek the advice of the registrar of the court.

(d) ORDER OF THE MINISTERS OF JUSTICE AND FOREIGN AFFAIRS OF 29 DECEMBER 1932 CONCERNING THE SERVICE OF COURT DOCUMENTS ON PERSONS RESIDENT ABROAD, MEMBERS OF THE DIPLOMATIC SERVICE OF FOREIGN STATES AND PERSONS RESIDING WITH THEM.²

(9) Every request for service shall before being forwarded be verified by the registrar of the court, who shall certify it as verified and append his signature. Any error noted shall immediately be corrected.

(12) A request for service of any court document on a person in the diplomatic service of a foreign State (i.e., entitled to extritoriality) or on a person living under his roof shall be transmitted to the Ministry of Foreign

¹ *Dziennik Ustaw*, 1932, No. 114, item 946.

² *Ibid.*, 1932, No. 118, item 974.

Affairs through the Ministry of Justice or, if the matter is urgent, direct to the Ministry of Foreign Affairs.

Subject to the consent of the person entitled to extritoriality, a court document may be served on a person living under his roof without passing through the channel indicated in the preceding paragraph.

(13) No court document may be served on any person entitled to extritoriality without the prior consent of the competent diplomatic envoy, except in the cases indicated in article 5 (2) of the Code of Civil Procedure.

(14) No person entitled to extritoriality may be served with a court document containing a threat of a disciplinary penalty or of any other measure of constraint.

(15) Every document intended for a person entitled to extritoriality shall be verified in the manner indicated in section 9.

(16) Where any doubt arises with respect to the extritoriality of the person on whom a document is to be served, instructions shall be obtained from the Minister of Foreign Affairs.

(e) PENAL CODE, APPROVED BY ORDER OF THE PRESIDENT OF THE REPUBLIC,
11 JULY 1932¹

Article 111. (1) A person who on the territory of the Polish State commits an assault on the Head of a foreign State or on the diplomatic envoy of a foreign State accredited to Poland, shall be punishable by imprisonment for a term not exceeding ten years.

(2) A person who insults such Head of State or diplomatic envoy, shall be punishable by imprisonment or detention for a term not exceeding three years.

Article 112. (1) A person who on the territory of the Polish State insults, damages or removes the emblem, flag or ensign of a foreign State publicly displayed by the official mission of that State, shall be punishable by detention for a term not exceeding one year.

(2) Proceedings shall be instituted subject to reciprocity.

Article 132. (1) A person who insults a public official or the assistant of a public official during the exercise of official functions, shall be punishable by imprisonment or detention for a term not exceeding two years.

(2) Whoever insults a member of the diplomatic mission of a foreign State, the consul of a foreign State or the minister of a legally recognized religion or religious association during the exercise by such a person of official or spiritual functions shall be liable to the same penalty.

Article 133. (1) Whoever commits an assault on a public official or the assistant of a public official during or on account of the exercise of official functions, shall be punishable by imprisonment for a term not exceeding five years.

(2) Whoever commits an assault on a member of the diplomatic mission of a foreign State, the consul of a foreign State or the minister of a legally recognized religion or religious association during or on account of the exercise by such a person of official or spiritual functions shall be liable to the same penalty.

¹ *Ibid.*, 1932, No. 60, item 571.

(f) ORDER OF THE PRESIDENT OF THE REPUBLIC OF 22 MARCH 1928
CONCERNING ADMINISTRATIVE ENFORCEMENT PROCEDURE ¹

Article 1. This Order regulates the procedure for giving effect, through appropriate measures of constraint, to the following:

- (a) Statutory obligations;
- (b) Decisions, instructions, by-laws and prohibitions issued by the administrative authorities with a view to the enforcement of Acts and executive orders.

Article 58. The Minister of Foreign Affairs, in consultation with the Minister of the Interior, shall specify by Order the conditions of exemption from the provisions of this Order to be granted to persons entitled to special privileges by virtue of international law.²

(g) DECREE OF 28 JANUARY 1947 CONCERNING ADMINISTRATIVE PROCEEDINGS FOR THE ENFORCEMENT OF FINANCIAL OBLIGATIONS ³

Article 43. Execution proceedings shall be discontinued —

- (e) If execution is barred by reason of some attribute of the matter or person concerned;

Article 47. (1) No measure of execution may be taken against any person or property exempt from the jurisdiction or competence of the national authorities by virtue of international law or international custom or of a convention concluded by the Polish Republic, except in cases where the debtor or his superior consents to execution proceedings.

(2) Execution shall not be subject to limitation if it is directed against any movable or immovable property which is appropriate, by virtue of the relevant provisions to the claim to be satisfied.

Article 48. No measure of execution may be taken on premises occupied by any person specified in the preceding article, except with the consent of such person or his superior under the provisions specifying their official status.

Article 49. Any doubt which may arise regarding the application of articles 47 and 48 shall be resolved by the Minister of the Treasury in consultation with the Minister of Foreign Affairs.

Article 181. (1) On the application of the creditor . . . , a debtor may be required to furnish security for a liability before payment is due . . .

¹ *Ibid.*, 1928, No. 36, item 342.

² The provisions specifying these exemptions were duly brought into force.

³ *Dziennik Ustaw*, 1947, No. 21, item 84.

Article 184.

(2) Property or rights in respect of which execution is barred and property of a rapidly perishable nature may not be attached for purposes of security.

Article 190. The procedure for obtaining security shall be subject as appropriate to the provisions relating to execution procedure.

(h) DECREE OF 11 APRIL 1947 CONCERNING FISCAL PROSECUTIONS ¹

Article 188. (1) The fiscal authorities and their executive services authorized to conduct investigations shall be entitled to carry out searches of premises or persons and to impound property.

(2) These duties shall be governed as appropriate by the provisions of the Code of Criminal Procedure ², subject to the modifications specified in the provisions hereinafter set forth.

II. EXEMPTION FROM OBLIGATIONS RESULTING FROM PROVISIONS RESPECTING ALIENS AND THE REGISTRATION AND CONTROL OF POPULATION MOVEMENTS

(a) ORDER OF THE PRESIDENT OF THE REPUBLIC OF 13 AUGUST 1926 CONCERNING ALIENS ³

Article 3. No alien may enter, stay in or pass through the territory of the Republic except with the permission of the Polish State authorities.

An alien may be refused such permission if his presence in the territory of the Polish Republic constitutes a threat to the welfare of the State . . .

Article 8. Every alien shall be required to report his address and to register. He shall report his address not later than twenty-four hours after the time of his arrival or of any change of residence (address). Registration shall be required only once, and must be completed not later than eight days after the time of arrival . . .

Article 9. Every alien within the territory of the Republic who has reached the age of sixteen years shall be in possession of an identity document attesting his nationality; such document must be issued by the national authorities of the alien . . .

¹ *Ibid.*, 1947, No. 32, item 140.

² These provisions should be read in conjunction with article 135 of the Code of Criminal Procedure.

³ *Dziennik Ustaw*, 1926, No. 83, item 465.

Article 10. An alien may be expelled from the territory of the Republic—

- (a) If he fails to comply with the provisions of this Order;
- (b) If his stay becomes a burden on the Republic or threatens public order or security.

Article 19. This Order shall not apply to persons entitled to extritoriality. Chiefs of consular missions of foreign States, members of their families with whom they maintain a common household, and members of their official staffs shall also be exempt from the provisions of this Order. Where, however, Polish nationals residing in a foreign State in a similar capacity are denied equivalent privileges corresponding restrictions shall be imposed on the aliens referred to in the foregoing sentence.

On entering, leaving or passing through the territory of the Republic any person referred to in the first two paragraphs of this article shall receive from the Polish authorities a diplomatic or service visa, which shall be affixed to his diplomatic or service passport. The Ministry of Foreign Affairs shall issue to such persons without charge, a special identity document.¹

Members of foreign delegations and commissions, persons residing in Polish territory with the approval of the Government of the Republic and persons holding a Polish diplomatic visa may be exempted from all or some of the provisions of this Order.

Provisions for the application of this article shall be promulgated by Order of the Minister of Foreign Affairs in consultation with the Minister of the Interior.

- (b) ORDER OF THE MINISTER OF FOREIGN AFFAIRS OF 31 MAY 1932 PROVIDING FOR THE APPLICATION OF ARTICLE 19 OF THE ORDER OF THE PRESIDENT OF THE REPUBLIC OF 13 AUGUST 1926 CONCERNING ALIENS ²

Pursuant to article 19, paragraph 5, of the Order of the President of the Republic of 13 August 1926 concerning aliens (*Dziennik Ustaw*, No. 83, item 465), be it hereby ordered as follows: ³

(1) The privileges due by virtue of article 19 (1) of the Order of the President of the Republic of 13 August 1926 concerning aliens to persons enjoying extritorial status shall be extended after such extritorial status has been confirmed.

Exterritorial status may be confirmed by an identity document issued by the Ministry of Foreign Affairs, or by other official documents.

¹ The privileges enumerated in paragraphs 1, 2 and 3 of article 19 are extended to the persons specified in the circular of the Ministry of Foreign Affairs of 31 December 1955 concerning identity documents.

² Promulgated in consultation with the Minister of the Interior, (*Dziennik Ustaw*, 1932, No. 51, item 490) incorporating the amendments introduced by Order by the Minister of Foreign Affairs of 5 August 1937 (*ibid.*, 1937, No. 63, item 490) and by Order of the Minister of Foreign Affairs of 22 December 1951 (*ibid.*, 1951, No. 65, item 467).

³ The privileges enumerated in the Order of 31 May 1932 are extended to the persons specified in the circular of the Ministry of Foreign Affairs of 31 December 1955 concerning identity documents.

The aforesaid identity document shall be issued by the Ministry of Foreign Affairs and shall be modelled on Form No. 1 annexed to this Order.

(2) The privileges due to the persons specified in article 19, paragraph 2, of the aforesaid Order of the President of the Republic concerning aliens shall be extended after it has been confirmed that such persons satisfy the conditions set forth in the Order.

Such confirmation may be attested by an identity document issued by the Ministry of Foreign Affairs, or by other official documents.

The aforesaid identity document shall be issued by the Ministry of Foreign Affairs and shall be modelled on Form No. 2 annexed to this Order.

(c) CIRCULAR OF THE MINISTRY OF FOREIGN AFFAIRS

No. PD 08912/20/55/og OF 31 DECEMBER 1955

Pursuant to the Order of the Minister of Foreign Affairs of 31 May 1932 providing for the application of article 19 of the Order of the President of the Republic of 13 August 1926 concerning aliens (*Dziennik Ustaw*, 1932, No. 51, item 490), as amended by the Orders of the Minister of Foreign Affairs of 5 August 1937 (*Dziennik Ustaw*, 1937, No. 63, item 490) and of 22 December 1951 (*Dziennik Ustaw*, 1951, No. 67, item 467), notice is hereby given that the identity documents modelled on the Forms annexed to the aforesaid Order of the Minister of Foreign Affairs shall be issued by the Department of Diplomatic Protocol of the Ministry of Foreign Affairs in accordance with the following principles:

(1) Identity documents modelled on Form No. 1 (coloured pink) shall be issued to the diplomatic envoys of foreign States accredited to Poland, to members of the diplomatic staffs of missions and to members of the families of such persons (wives and children).

In the case of children identity documents shall be issued as follows: to unmarried daughters residing with their parents and to sons under full legal age residing with their parents.

(2) Identity documents modelled on Form No. 2 (coloured blue) shall be issued to members of the office and administrative staffs of the diplomatic missions of foreign States in Poland, to servants of diplomatic envoys and to members of the families of such persons (i.e., wives and children in accordance with the principles stated in paragraph 1). Such identity documents shall be issued only to nationals of the State represented by the mission.

(3) Identity documents modelled on Form No. 2 (coloured green) shall be issued to the chiefs and staffs of the consular agencies of foreign States in Poland and to members of their families (i.e., wives and children in accordance with the principles stated in paragraph 1), provided that such persons are nationals of the State represented by the consular agency.

(d) ORDER OF THE MINISTER OF PUBLIC SECURITY OF 10 JULY 1947,
CONCERNING THE REGISTRATION OF ALIENS, THE EXTENTION OF THE
VALIDITY OF VISAS AND THE ISSUE OF TEMPORARY VISAS AND PERMANENT
RESIDENCE PERMITS¹

With a view to regulating questions arising out of the stay of aliens on the territory of the Polish Republic and to drawing to the attention of such

¹ *Monitor Polski*, 1947, No. 154, item 911.

persons their obligations under article 23 of the Order of the President of the Republic of 13 August 1926 concerning aliens (*Dziennik Ustaw*, No. 83, item 465) and paragraphs 6, 8, 25 and 27-30 of the Order of the Minister of the Interior of 8 November 1929 concerning the movement of aliens (*Dziennik Ustaw*, No. 76, item 575), be it hereby ordered as follows:

(1) Every alien entering the territory of the Polish Republic shall be required to report his address. This duty shall be carried out not later than twenty-four hours after the time of arrival or after the time of any change of residence (address).

(2) Independently of his duty to report his address, every alien entering the territory of the Polish Republic shall also be required to register. This duty shall be carried out by the alien in person, not later than eight days after the time of his arrival in Poland.

(3) Registration formalities shall be completed in the District or Municipal Headquarters of the Citizens' Militia in the alien's place of residence.

(8) The competent (see paragraph 7) Provincial or Municipal Headquarters of the Citizens' Militia may authorize a temporarily resident alien to take up permanent residence.

(11) Aliens entitled to exterritoriality shall not be subject to the obligations specified in this Order.¹

(e) ORDER OF THE PRESIDENT OF THE REPUBLIC OF 16 MARCH 1928
CONCERNING THE REGISTRATION AND CONTROL OF POPULATION MOVEMENTS²

Article 20.

(2) The Minister of Foreign Affairs, in consultation with the Minister of the Interior, shall by Order regulate the procedure for the registration of persons entitled to exterritoriality and professional consuls of foreign States and members of their families with whom they maintain a common household, and of members of their official staffs and their personal servants, where such persons are of foreign nationality.

(f) ORDER OF THE PRESIDENT OF THE REPUBLIC OF 23 MAY 1934
CONCERNING REGISTRATION AND POPULATION REGISTERS³

Pursuant to article . . . 20 . . . of the Order of the President of the Republic of 16 March 1928 concerning the registration and control of population movements . . . be it hereby ordered as follows;

(1) The articles cited in this Order are articles in the Order of the President of the Republic of 16 March 1928 concerning the registration and control of population movements . . .

¹ This privilege is extended to the persons specified in the Circular of the Ministry of Foreign Affairs of 31 December 1955 concerning identity documents.

² *Dziennik Ustaw*, 1928, No. 32, item 309.

³ *Ibid.*, 1934, No. 54, item 489.

- (18). (1) The provisions of articles 11 to 17¹ shall also apply to aliens.
- (2) The arrival or departure of an alien shall be registered by completing a report form corresponding to schedules Nos. 1A, 2A, 3A or 4A, which shall be delivered to the commune together with two copies completed and attested by the owner of the house or a person acting on his behalf.
- (3) One of the copies of the alien's report form delivered to the commune shall immediately be forwarded by the commune to the local district administrative authority.
- (4) The provisions of this paragraph shall not apply to the persons specified in article 20, paragraph 2.

(g) DECREE OF 23 MARCH 1956 CONCERNING THE PROTECTION OF THE STATE FRONTIERS²

Article 9. (1) The frontier zone is a belt extending to a distance of two to six kilometres from the land frontier line or from the limit of the frontier waters or the coast into the interior.

Article 12. (1) No person may reside in the frontier zone without authorization from the presidium of the District (Municipal) People's Council having jurisdiction over the place of intended residence.

(2) No person may visit the frontier zone without authorization from the District (Municipal) Citizens' Militia Headquarters having jurisdiction over his place of residence.

(5) The Minister of Foreign Affairs and the Minister of the Interior, with the approval of the Prime Minister, shall specify the conditions governing the residence and stay in the frontier zone of foreign officials of diplomatic and consular missions and members of their families.

Article 16. (1) The frontier belt is the area comprising all districts adjoining the land frontier line, the limit of the frontier waters or the coast. Where the breadth of the frontier belt as thus defined is less than thirty kilometres, the frontier belt shall also include such municipalities and districts as are wholly or in part situated within a distance of thirty kilometers from the land frontier line or from the limit of frontier waters or the coast.

Article 19.

(2) With a view to the prosecution of persons committing offences against the inviolability and security of the State frontiers, the frontier protection authorities shall be entitled within the frontier belt, or in cases

¹ These are detailed provisions relating to registration formalities.

² *Dziennik Ustaw*, 1956, No. 9, item 51.

of hot pursuit even outside such belt, to detain and search persons, property, means of transport and premises in conformity with the provisions of the Code of Penal Procedure.

Article 33. (1) All provisions relating to any subject dealt with by this Decree are hereby repealed.

Article 35. All existing provisions which are not inconsistent with the provisions of this Decree shall remain in force pending the promulgation of regulations for the execution of this Decree.

(h) ORDER OF THE MINISTER OF FOREIGN AFFAIRS OF 22 JANUARY 1937 PROVIDING FOR THE APPLICATION OF THE ORDER OF THE PRESIDENT OF THE REPUBLIC CONCERNING THE STATE FRONTIERS ¹

3. Every person permanently or temporarily resident in the frontier zone shall be in possession of an identity card. . . .

4. The following persons shall be exempted from the obligation to hold the identity card referred to in paragraph 3:

(2) Aliens in the diplomatic or consular service, and members of their families, who possess the identity document issued by the Ministry of Foreign Affairs;

5. (1) A person wishing to take up residence in a locality situated in the frontier zone shall apply for authorization from the District administrative authority having jurisdiction over the locality in which he intends to reside.²

(2) The provisions of sub-paragraph (1) shall apply also to persons who have received authorization to stay in the frontier zone pursuant to paragraph 7, if they wish to take up residence therein.

6. Only the names of persons who have obtained the authorization prescribed in paragraph 5, may be entered in the register of inhabitants of communes situated within the frontier zone.

7. (1) The Provincial Commissioners shall be empowered to make regulations whereby persons not permanently resident in the frontier zone shall be required to obtain special authorization for any stay therein. . . .³

8. (1) The provisions of paragraphs 5 and 6 do not affect, and the provisions of paragraph 7 shall not be applied to, the following:

¹ *Ibid.*, 1937, No. 12, item 84. Made in consultation with the Ministers of the Treasury, Justice, Communications and Agriculture and Land Reform.

² The provisions of paragraph 5 (1) have been superseded by article 12 (1) of the Decree of 23 March 1956 concerning the protection of the State frontiers.

³ This provision has been superseded by article 12 (2) of the aforesaid Decree.

vi. Aliens entitled to extritoriality, professional consuls, their professional staffs and members of their families, possessing the identity document issued by the Ministry of Foreign Affairs, where such persons are nationals of the sending State; this privilege shall apply only in the frontier zone falling within their consular district.

10. (1) Every person arriving in a locality situated within the sector of the frontier zone defined in paragraph 17 shall report his arrival to the competent communal office not later than twenty-four hours after the time of his arrival in the frontier zone, regardless of the proposed duration of his stay.

(4) The provisions of paragraph (1) hereinbefore shall not apply to . . . the persons specified in paragraph 4 (2).

33. (3) The provisions of paragraphs 4 (2), 8 (1), 6 and 10 (4) shall not apply to the persons specified in paragraph 4 (2) if Polish diplomatic and consular agents do not enjoy the same privileges in the sending State under such provisions as may be in force in the latter State with regard to the stay of persons in the frontier zone.

III. EXEMPTION FROM TAXATION, LOCAL CHARGES AND CUSTOMS DUTIES

(a) ACT OF 4 FEBRUARY 1949 CONCERNING THE TAX ON WAGES AND SALARIES ¹

Article 3. The following persons shall be exempt from the tax:

(1) Diplomatic or consular agents of foreign States, members of their official staffs and persons in their service where such persons are of foreign nationality;

(2) Such other persons as are entitled to the privilege of exemption from the tax pursuant to international convention or under the principles of international law . . .

(b) DECREE OF 26 OCTOBER 1950 CONCERNING THE TURNOVER TAX ²

Article 2. (1) The tax shall be chargeable on all goods or services furnished for valuable consideration within the territory of the Polish State in the exercise of a professional activity recognized under civil law, and on the value of goods as specified in article 7 (2) and (3).

¹ *Dziennik Ustaw*, 1949, No. 7, item 41.

² *Ibid.*, 1950, No. 49, item 449.

Article 3. (1) The following shall be exempt from the tax:

. . . .

(5) Subject to reciprocity, any of the goods specified in article 9 (1) ¹ which are imported from abroad for the use of envoys of foreign States and their retinue during their stay within the jurisdiction of the Polish customs authorities, and of foreign diplomatic missions, special foreign missions and members of such missions.

. . . .

(c) DECREE OF 26 OCTOBER 1950 CONCERNING INCOME TAX ²

. . . .

Article 2. (1) The following shall be exempt from income tax:

. . . .

(2) Income obtained from foreign sources by diplomatic and consular agents, members of missions of foreign States and members of their staffs where such persons are not nationals of the Polish State, and by such other persons as are granted equivalent privileges pursuant to international convention or international law.

. . . .

(d) DECREE OF 20 MAY 1955 CONCERNING LOCAL TAXES AND CHARGES ³

. . . .

PART II

Immovable property tax

Article 4. (1) The tax shall be chargeable to every individual or body corporate owning or holding immovable property and on every inheritance which has not devolved and includes immovable property.

. . . .

Article 6. (1) The following property shall be exempt from the tax:

. . . .

(5) Subject to reciprocity, immovable property owned by a foreign State and used as office premises by a diplomatic or other mission or consulate of that State or occupied as residential premises by any persons entitled to extritoriality or by a consul or consular official, where such persons are not Polish nationals; ⁴

. . . .

¹ Article 9 (1) lists the following goods: "sparkling wine, aerated wine, wine of fresh grapes, sparkling or aerated fermented fruit juices, fermented fruit juices, grape must and mead, beer, starch sugar (including products therefrom) artificial sweetening agents, paper playing cards, playing cards made of other materials, baker's yeast, acetic acid, carbonic acid".

² *Dziennik Ustaw*, 1950, No. 49, item 450.

³ *Ibid.*, 1955, No. 21, item 136.

⁴ By virtue of special administrative regulations, this provision also applies to the non-diplomatic staff of diplomatic missions.

PART III

Tax on the occupation of premises

Article 13. The tax shall be chargeable to every individual or body corporate occupying premises as a rent-paying tenant or gratuitously in any building owned by such individual or body corporate or by another, and to every individual occupying premises by reason of a labour contract or employment relationship, and on every inheritance which has not devolved and includes the right to a tenancy.

Article 15. The following premises shall be exempt from the tax:

(3) Subject to reciprocity, premises occupied as offices by a diplomatic or other mission or consulate of a foreign State, and premises occupied by any person entitled to extritoriality, or by a consul or consular official of such State where such persons are not Polish nationals.¹

PART IV

Charge on means of transport

Article 21. The charge on means of transport shall be payable by all individuals and bodies corporate not included in the socialized sector of the economy and possessing any of the following means of transport: motor vehicle, yacht, ferry-boat, goods delivery bicycle, boat or horse.

Article 22. The following shall be exempt from the charge:

1. Subject to reciprocity, means of transport owned by diplomatic envoys of foreign States, members of missions and consular agents of such States, persons entitled to extritoriality and consular officials of such States, where such persons are not Polish nationals.²

PART VIII

Dog Tax

Article 39. The dog licence tax shall be chargeable to every individual or body corporate possessing a dog.

Article 40. The following persons shall be exempt from the dog licence tax:

(4) Agents of foreign States, persons entitled to extritoriality by virtue of international law and consuls and consular officials, where such persons are not Polish nationals.³

¹ By virtue of special administrative regulations, this provision also applies to the non-diplomatic staff of diplomatic missions.

² By virtue of special administrative regulations, this exemption also extends to diplomatic and consular offices, to missions, and to the non-diplomatic staff of diplomatic missions.

³ By virtue of special administrative regulations, this provision also applies to the non-diplomatic staff of diplomatic missions.

(e) DECREE OF 3 FEBRUARY 1947 CONCERNING THE TAX ON THE ACQUISITION
OF PROPERTY RIGHTS

Article 1. (1) The tax shall be chargeable on the acquisition of property rights.

(2) Where a person who acquires a property right subsequently declares that he acquired that right on behalf of a third party, the acquisition of the right by the third party concerned resulting from such declaration shall be taxable separately.

(3) Where property rights are acquired jointly by two parties, the tax shall be chargeable to only one of the parties, namely, the party who acquires the right on which the greater amount of tax is payable.

Article 2. (1) The following shall be exempt from the tax:

(2) Subject to reciprocity:

(a) Foreign States which acquire property rights by virtue of an international agreement or which acquire, by virtue of any other agreement, rights to immovable property or leasehold or tenancy rights in immovable property or premises, situated in Poland and required for the official business of a diplomatic or consular mission or other foreign mission temporarily operating in Poland, or for the residential use of the chief of a diplomatic, consular or other mission or of any other member of the staff of a diplomatic, consular or other mission, where such persons are not Polish nationals;

(b) Persons who are diplomatic or consular agents or members of missions of foreign States, and members of their staffs, where such persons are not Polish nationals, and such other persons as are entitled to similar privileges pursuant to international convention or international law, in so far as they lease or otherwise acquire the tenancy of immovable property or premises for residential purposes.

(f) DECREE OF 3 FEBRUARY 1947 CONCERNING TREASURY CHARGES ²

Article 1. Treasury charges shall be payable on the official acts, applications and documents listed in the "Schedule of Treasury charges" annexed to the Decree.

Article 2. (1) The official acts, applications and documents listed as exempt in part II of the "Schedule of Treasury charges" shall not be subject to such charges.

¹ *Dziennik Ustaw*, 1951, No. 9, item 74. Consolidated text of 27 January 1951.

² *Ibid.*, 1951, No. 9, item 73. Consolidated text of 27 January 1951.

Annex to article 1 of the Decree of 3 February 1947 concerning Treasury charges.

Schedule of Treasury charges

PART II

14. The following shall be exempt from the charges (*ratione personae*):

(c) Subject to reciprocity, foreign States, diplomatic and consular agents, members of missions of foreign States and members of their staffs, where such persons are not Polish nationals, and such other persons as are entitled to similar privileges pursuant to international convention or international law.

(g) ORDER OF THE MINISTER OF FINANCE OF 12 AUGUST 1955 CONCERNING THE TOTAL OR PARTIAL EXEMPTION OF CERTAIN APPLICATIONS, CERTIFICATES AND DOCUMENTS FROM TREASURY CHARGES ¹

10. (1) No Treasury charge shall be payable on a document relating to the transport:

(3) By ship or aircraft, of a diplomatic or consular agent of a foreign State or a member of his staff, where such persons are not Polish nationals, or of any other person entitled to equivalent privileges pursuant to international convention or international law; this exemption shall be subject to reciprocity.

(h) ORDER OF THE PRESIDENT OF THE REPUBLIC OF 27 OCTOBER 1933 CONCERNING CUSTOMS ²

Article 17. Wherever this Order refers to "customs dues" without further definition, the expression shall include:

- (a) Import and export duties;
- (b) Customs handling charges;
- (c) Additional customs handling charges (incidentals);
- (d) Warehousing charges in respect of storage in official customs warehouses.

Article 22. (1) The following shall be exempt from customs dues:

- (2) Subject to reciprocity:
 - (a) Articles intended for the official use of the diplomatic legation of a foreign State, a foreign mission or a consular agency;

¹ *Monitor Polski*, 1955, No. 80, item 954.

² *Dziennik Ustaw*, 1933, No. 84, item 610.

(b) Articles intended for the personal use of members of accredited diplomatic legations of foreign States or foreign missions, or of persons entitled to diplomatic privileges pursuant to international convention;

. . .

Article 42. (1) Goods submitted for customs clearance shall be subject to customs examination.

. . .

(5) The following shall not be subject to customs examination:

. . .

(b) Official items addressed to diplomatic legations or missions or consulates, or to persons entitled to diplomatic privileges, provided that such items bear the official seal of the Ministry of Foreign Affairs of a foreign State, of a Polish or foreign legation abroad, of the Secretariat of the League of Nations, of the International Labour Office, of the Permanent Court of International Justice at The Hague, of the Permanent Court of Arbitration at The Hague, or of any other permanent international organization of a character similar to the organizations mentioned above;

(c) Household effects and baggage belonging to persons holding diplomatic appointments in the service of a foreign State or to persons entitled to diplomatic or special privileges pursuant to international convention;

. . .

Article 57. The Minister of the Treasury may make special regulations applicable to means of transport and to saddle, draught or pack animals, with their harness and blankets, imported or exported across the customs boundary for temporary use . . .

(i) ORDER OF THE MINISTER OF THE TREASURY OF 9 OCTOBER 1934¹
(REGULATIONS FOR THE APPLICATION OF THE CUSTOMS ORDER)

. . .

14. The Minister of the Treasury, in consultation with the Minister of Foreign Affairs, shall issue a separate instruction specifying the procedure to be followed in effecting the customs clearance of articles intended for the following uses:

. . .

(b) The official use of diplomatic legations of foreign States, foreign missions or consular agencies;

(c) The personal use of members of accredited diplomatic legations of foreign States or foreign missions, or of persons entitled to diplomatic privileges pursuant to international convention.

. . .

17. Customs offices may exempt from customs duty any of the articles listed in article 22 I, sub-paragraphs 1 to 12, and in article 22 II, sub-paragraphs 1-11, 17, 21, 23 and 24 . . .

. . .

¹ *Ibid.*, 1934, No. 90, item 820.

180. (3) A customs, fiscal or police authority arriving on the scene of the forced landing of an aircraft may examine the aircraft and its documents

(5) If an aircraft, by reason of its condition or from any other cause, is unable to continue its flight, the following procedure shall be followed:

(a) The first representative of any of the authorities indicated in paragraph (3) who reaches the damaged aircraft shall examine and clear such articles as constitute the personal baggage of the passengers, subject to the provisions relating to the clearance of baggage and other items carried by persons entitled to extritoriality or to diplomatic privileges, and shall check the travel documents of the persons arriving on board the aircraft and record therein the place and date of the forced landing. The persons expressly mentioned shall be assisted in the continuance of their journey;

(j) INSTRUCTION OF THE MINISTER OF THE TREASURY OF 24 SEPTEMBER 1938 CONCERNING THE PROCEDURE FOR THE CUSTOMS CLEARANCE OF ARTICLES INTENDED FOR PERSONS ENTITLED TO EXTRITORIALITY OR FOR THE OFFICIAL USE OF ACCREDITED DIPLOMATIC LEGATIONS OF FOREIGN STATES, SPECIAL FOREIGN MISSIONS OR FOREIGN CONSULAR AGENCIES ¹

Pursuant to paragraph 14 of the Regulation for the application of the Customs Order (*Dziennik Ustaw*, 1934, No. 90, item 820), be it hereby ordered as follows:

1. (1) The Ministry of Foreign Affairs shall give due notice to the Treasury of the forthcoming arrival within the Polish customs area of the Head of a foreign State; the Treasury shall thereupon issue the necessary orders.

(2) All items addressed to the Head of a foreign State or his retinue during his stay in the Polish customs area shall be exempted from customs dues by the Treasury on receipt of notice from the Ministry of Foreign Affairs of destination of such items.

2. (1) The following articles, if intended for the official use of accredited diplomatic legations of foreign States, special foreign missions or regular foreign consular agencies, may be exempted from customs dues:

- (a) State insignia (flags, seals and the like);
- (b) Official documents and printed matter;
- (c) Office equipment;
- (d) Office furniture.

(2) Articles other than those mentioned in paragraph 1 may be exempted from customs dues subject to the authorization of the Treasury in each case.

3. The items specified in paragraph 2 (1) . . . shall be exempted from customs dues by the customs office situated in the same locality as, or in the locality nearest to, the headquarters of the diplomatic legation, special

¹ *Monitor Polski*, 1938, No. 229, item 500. Issued in consultation with the Minister of Foreign Affairs.

foreign mission or consular agency, on the basis of a certificate issued by the chief of such legation, mission or consular agency or his representative; such certificates may be drafted in any form.

4. Where exemption from customs dues has been granted in respect of any office furniture, motor-car or aircraft owned by a foreign State and used for official purposes by an accredited diplomatic legation, special foreign mission or regular consular agency of such State, the Treasury may authorize the transfer of such office furniture, motor-car or aircraft free of customs dues to a person not entitled to customs exemption, provided that a period of two years has expired since the date of customs import clearance.

5. (1) Chiefs of accredited diplomatic legations of foreign States or of special foreign missions and members of the diplomatic staffs of such legations or missions whose presence in their capacity as such has been officially notified to the Ministry of Foreign Affairs shall be entitled to exemption from customs dues in respect of the following:

(a) Household goods and effects brought by them and their families on their taking up an appointment within the Polish customs area;

(b) Articles sent to their address and intended for their personal use.

(2) Articles intended for personal use which, in special circumstances and for good and sufficient reasons, have not been sent direct to the address of a person specified in sub-paragraph (1) may be exempted from customs dues on the basis of a certificate issued in accordance with paragraph 8 (1) provided in all cases that specific authorization is obtained from the Treasury

7. (1) Household goods and effects belonging to persons specified in paragraph 5 (1) . . . shall be exempted from customs dues by the Customs Administration in Warsaw.

(2) Customs exemption in respect of household goods and effects shall be granted on the basis of a certificate, issued by the Ministry of Foreign Affairs, confirming that the consignment in question consists of the household goods and effects of a person specified in paragraph 5 (1) . . . required on his taking up an official appointment within the Polish customs area.

8. (1) The articles intended for personal use referred to in paragraph 5 (1) (b) shall be exempted from customs dues by the designated customs offices, within their respective districts, on the basis of certificates, issued from books of such certificates by diplomatic legations or special foreign missions, confirming that the consignment is intended for the personal use of a member of the legation or mission. The books of certificates shall be prepared by the Treasury and shall be issued by the Ministry of Foreign Affairs to the persons authorized to sign such certificates. A model certificate is annexed to this Instruction.

(2) The certificate authorizing exemption from customs dues (sub-paragraph 1) must indicate as the recipient of the consignment a person specified in paragraph 5 (1) . . . and not the diplomatic legation or special foreign mission. The certificate must be signed in person by . . . the Ambassador, Minister or Chargé d'Affaires (permanent or *ad interim*), or by the chief of the special foreign mission, and must bear the official seal of the diplomatic legation or mission. The certificate must contain an accurate statement of the quantity and nature of the goods for which free entry is requested. No alterations may be made in the certificate.

(3) A certificate which does not conform to the conditions prescribed in sub-paragraph (2) or which bears any trace of an erasure shall be returned to the person concerned as invalid with a statement of the reasons for such return.

9. (1) All articles exempted from customs dues which, after collection from the customs office, are for any reason whatsoever not retained by the recipient for his personal use, shall be returned abroad Where articles are returned abroad . . . the diplomatic legation or special foreign mission concerned shall in every case notify the customs office which effected the customs import clearance of the articles, indicating the date of return and the date and number of the certificate on the basis of which the returned articles were granted exemption from customs dues. On receiving such notification, the customs office shall record the return of the articles in the register (paragraph 11).

(2) Articles referred to in paragraph 5 which have been granted exemption from customs dues may not be transferred within a period of two years following the date of customs clearance to any person not entitled to customs exemption, except after payment of such customs dues as the customs office may specify.

(3) On the customs clearance of any motor-car transferred before the expiry of a period of two years from the date of the original clearance (sub-paragraph 2), the Treasury may authorize:

(a) The collection of duty according to rates specified in a treaty, if the markings and make of the motor-car or other evidence indicate beyond doubt that it was produced in a country Party to that treaty;

(b) The valuation of the motor-car, with a view to the assessment of duty, on the basis of its condition at the time of its presentation to the customs office for clearance, such condition being determined in accordance with the advice of experts called by the customs office at the cost of the person concerned. The value shall be assessed exclusive of customs dues.

(4) In individual cases deserving special consideration, the Treasury may authorize the transfer of an article exempted from customs dues before the expiry of the two-year period without requiring the payment of customs dues.

(5) The provisions of sub-paragraphs (2) and (4) shall not apply to articles exempted from customs dues which are covered by a State monopoly or are subject to monopoly charges, indirect taxes or other internal dues; such articles may be transferred to persons not entitled to customs exemption only with the authorization of the Treasury in each case and on condition that the appropriate customs dues and internal charges are paid in accordance with the condition of the articles at the time of their presentation for customs clearance.

10. (1) The customs clearance of items specified in paragraph 5 shall be the responsibility of the customs office in Warsaw.

(2) . . .

11. (1) Customs offices shall keep registers of exemptions from customs dues granted in respect of articles specified in paragraph 5 (1) (b) and (2); a separate register shall be kept for each diplomatic legation or special foreign mission, with a separate account for each individual member.

(2) New registers shall be opened for each calendar year. The following particulars shall be stated in all registers:

- (a) The number and date of the certificate authorizing exemption from customs dues;
- (b) The number of the customs clearance document;
- (c) The quantity and nature of the goods cleared;
- (d) The quantity and nature of goods returned abroad . . . (paragraph 9 (1))

12. (1) Household goods and effects belonging to members of the staffs of accredited diplomatic legations of foreign States and special foreign missions who are not entitled to diplomatic privileges and to members of the staffs of foreign consular agencies shall be exempted from customs dues by the competent Customs Administration in accordance with general principles; such exemption shall be granted on the basis of a request from the chief of the diplomatic legation, special foreign missions or consular agency or his representative confirming that the imported movables are the household goods and effects of an official assigned to a post within the Polish customs area. Such requests shall replace the confirmation and certification of inventories of household goods and effects required under general customs regulations.

(2) The customs clearance of the household goods and effects of the persons specified in sub-paragraph (1) shall be effected by the customs office situated in the same locality as the headquarters of the diplomatic legation, special foreign mission or consular agency or by the office nearest thereto.

13. Consignments exempted from customs dues by virtue of these provisions shall also be exempt from monopoly charges, indirect taxes and other internal dues or import restrictions.

14. The customs clearance of consignments shall be effected on the basis of a verbal declaration in the presence of the addressee or of a person duly authorized by him, who must be a member of the staff of the diplomatic legation or special foreign mission. The clearance of such consignments may not be effected through customs agents, public forwarding agencies or any other persons. A certificate authorizing a customs agent or other person who is not a member of the staff of the legation or mission to collect the consignment shall be invalid.

15. Pursuant to article 42 (5) of the Customs Order, the following shall not be subject to customs examination:

(a) Articles intended for the use of the Head of a foreign State or his retinue during his stay within the Polish customs area;

(b) Official consignments (incoming and outgoing) of accredited diplomatic legations of foreign States, special foreign missions, persons entitled to diplomatic privileges pursuant to international convention, or foreign consular agencies, bearing the official seal of the Ministry of Foreign Affairs of a foreign State or foreign diplomatic legation or consular agency . . .

(c) Official consignments of the Ministry of Foreign Affairs of the Polish Republic (incoming and outgoing) bearing the official seal of the Ministry or of a Polish Embassy, legation, consular agency or special mission abroad, or of any person or institution specified in sub-paragraph (b);

(d) Household goods and effects and baggage belonging to persons holding diplomatic posts in the service of a foreign State or to persons entitled to diplomatic or special privileges pursuant to international convention.

16. Persons carrying any of the consignments specified in paragraph 15 (b) and (c) (diplomatic couriers) shall carry the necessary courier's credentials, or, if the State concerned does not issue special courier's credentials, a *laissez-passer*. The fact that a consignment specified in paragraph 15 (b) and (c) does not bear the inscription "Expedition officielle" or that it is addressed personally to the chief of a diplomatic legation, special foreign mission or consular agency and not to the diplomatic legation, special foreign mission or consular agency itself shall not affect the official nature of the consignment.

17. (1) All articles which a person holding a diplomatic post in the service of a foreign State or entitled to diplomatic or special privileges pursuant to international convention carries with him during a journey and declares to be his property shall be regarded as baggage exempt from customs examination by virtue of paragraph 15 (d). Exemption from customs examination in such cases shall be granted on production of a diplomatic passport bearing a Polish diplomatic visa.

(2) . . .

18. The persons and articles specified in this Instruction shall be granted priority of customs clearance.

19. The privileges provided for in this Instruction shall be extended on condition of reciprocity . . .

(k) ORDER OF THE MINISTER OF THE TREASURY OF 2 JULY 1937 CONCERNING THE CUSTOMS CONTROL OF MAIL ¹

Annex: Customs control of mail

1. Introductory explanation

(1) The articles cited in this Instruction without further specification refer to the provisions of the Order of the President of the Republic of 27 October 1933 concerning Customs (*Dziennik Ustaw*, No. 84, item 610).

(2) The paragraphs cited in this Instruction without further specification refer to the provisions of the Order of the Minister of the Treasury of 9 October 1934 concerning the application of the Customs Order (*Dziennik Ustaw*, No. 90, item 820).

14. Delivery of postal items for final customs clearance

(1) The postal customs office, after checking the relevant documents, shall divide all parcels received from the clearing centre into two categories; the first category shall include: parcels subject to customs clearance with the participation of the addressee, and parcels intended for Government institutions and educational centres and for diplomatic establishments, foreign missions, consular agencies and members of their staffs; the second category shall include all other parcels subject to customs clearance with the participation of the postal authorities in the absence of the addressee. Parcels in the second category, together with their alternative addresses and the customs declarations by the sender, shall be forwarded by the

¹ *Monitor Polski*, 1937, No. 177, item 293. Issued in consultation with the Minister of Posts and Telegraphs.

postal customs office to the subdivisional customs office for clearance in the order of their arrival, except that parcels containing any goods listed in paragraph 10 (3) and air mail, urgent and express parcels shall be forwarded immediately, regardless of their time of arrival. Parcels in the first category shall be retained by the postal customs office, which shall notify the addressees of their arrival, stating the time limit within which they must apply for customs clearance (paragraph 17 (3) of this Instruction). On receipt of such application from the addressee, the postal customs office shall deliver the relevant parcel, together with the necessary documents, to the subdivisional customs office for clearance.

17. Final customs clearance of postal items with the participation of the addressee.

In the postal customs offices:

(1) An addressee who has reserved his right to be present at the customs clearance and any person authorized by a Government institution, an educational centre, a diplomatic legation, a foreign mission or a consular agency, shall apply to the postal customs office producing his notice of the arrival of the item (paragraph 14 (1) of this Instruction).

(2) The customs clearance of an item in the presence of the addressee shall be effected in the manner prescribed in paragraphs 15 and 16 of this Instruction. A memorandum of the examination shall be shown by the subdivisional customs office to the person concerned, who, if he does not agree with its contents, shall clearly state his objection and the reasons therefor at the foot of the memorandum (paragraph 42 (6)). The addressee may pay the customs and other dues chargeable on the item directly to the cashier of the postal customs office, and may collect the item from the office after also paying the necessary postal charges.

(3) If an addressee fails to apply for customs clearance within three days from the date on which notice of the item's arrival at the postal customs office was sent, the customs clearance shall be effected in his absence (paragraph 141 (3)).

20. Items addressed to persons entitled to extritoriality and to foreign missions:

(1) Items intended for persons entitled to extritoriality or for the official use of accredited diplomatic legations of foreign States, special foreign missions or consular agencies shall receive special consideration. The postal customs office shall attach to the notice of the item's arrival a copy of the sender's customs declaration, and, if the item is urgent or its external appearance or the postal documents indicate that it contains perishable goods, shall further advise the addressee, where possible by telephone, of its arrival.

(2) The customs clearance of such items shall be carried out in accordance with the provisions of the Instruction of the Minister of the Treasury of 31 January 1935, issued in consultation with the Minister of Foreign Affairs concerning the procedure for the customs clearance of articles intended for persons entitled to extritoriality or for the official use of accredited diplomatic legations of foreign States, special foreign missions or consular agencies (*Monitor Polski*, No. 41, 19 February 1935, item 55;

Treasury Gazette, No. 6, 1935, item 113).¹ Before clearance, the sub-divisional customs office shall satisfy itself that the items do not fall within the category of items exempted from examination by virtue of the aforesaid Instruction. Any item which while not exempted from examination is nevertheless exempt from duty may be cleared, provided that the declared value appears to be accurate, without thorough examination.

(3) Customs clearance and all other postal formalities connected with the items referred to in this paragraph shall be completed without delay and shall be granted highest priority.

(l) ORDER OF THE MINISTER OF THE TREASURY OF 18 JULY 1935 CONCERNING THE CUSTOMS CLEARANCE OF MEANS OF TRANSPORT²

Pursuant to articles 57 and 135 of the Order of the President of the Republic of 27 October 1933 concerning customs (*Dziennik Ustaw*, No. 84, item 610), be it hereby ordered as follows:

1. (1) Foreign means of transport, i.e., motor-cars, motorcycles, pedal cycles, motor-boats, boats or canoes, together with their spare parts, horse-drawn vehicles with their teams and saddle-horses, introduced into the Polish customs area by persons resident abroad who enter the Polish customs area for a temporary stay, may be temporarily exempted from customs duty and from import restrictions (conditionally cleared) if they are intended for the personal use of such persons. A temporary stay within the meaning of this Order is a stay for a period not exceeding one year.

(2) Conditional clearance, as referred to in sub-paragraph (1), may not be granted to any persons permanently resident within the Polish customs area except nationals of foreign States who are members of the staffs of foreign diplomatic legations, regular consular agencies or foreign missions whose sending governments extend reciprocal privileges. Persons having two places of residence, one of which is within the Polish customs area and the other abroad, shall be regarded for the purposes of this Order as permanently resident within the Polish customs area.

24. (1) Means of transport conditionally cleared in accordance with the provisions of this Order may not be used within the Polish customs area for purposes of profit. Furthermore, such means of transport may not be ceded (sold, lent and so forth) to other persons.

IV. SPECIAL CURRENCY REGULATIONS

(a) GENERAL INSTRUCTION CONCERNING FRONTIER CURRENCY CONTROL (ANNEX TO THE ORDER OF THE MINISTER OF FINANCE OF 25 AUGUST 1954 CONCERNING THE CURRENCY CONTROL OF PERSONS CROSSING THE STATE FRONTIER)³

1. Restrictions on the export of currency.

¹ This Instruction was superseded by the Instruction of the Minister of the Treasury of 24 September 1938 bearing the same title (*Monitor Polski*, 1938 No. 229, item 500).

² *Dziennik Ustaw*, 1935, No. 60, item 387.

³ *Monitor Polski*, 1954, No. 89, item 993.

2. No person may export abroad without authorization:

(1) Any of the following means of payment whether domestic (expressed in Polish currency) or foreign (expressed in foreign currency):

(a) Money (banknotes and coin) recognized as legal tender or legally exchangeable, regardless of the amount;

(b) Treasury notes;

(c) Cheques and drafts, even if drawn in blank (i.e., bearing only the signature of the drawer) or overdue, whether protested or not protested;

(d) Promissory notes, letters of credit, drafts and transfers or any authorization to pay to a specified payee or to bearer, issued by any State institution or unit of the Socialized sector of the economy or any other body corporate or individual, whether such authorization is made out on a special form (such as a bill of exchange or cheque) or on business or other stationery;

(e) International reply coupons issued in Poland.

(2) Any securities issued in Poland or abroad which yield a percentage premium or dividend, such as shares, bonds, mortgage bonds, debentures, or the coupons of such securities;

(3) Any share certificates issued in Poland or abroad, or authenticated copies of such certificates;

(4) Any passbook issued in Poland or abroad relating to a savings or deposit account or any authenticated copy of such passbook;

3. (1) Persons domiciled in a foreign currency area who cross the frontier as travellers shall be entitled, regardless of the identity document which they use on crossing the frontier, to export abroad without a special currency authorization, within a period of four months from the date of their entry into Poland,¹ such of the currency assets specified in paragraph 2 (1) to (4) as they had previously brought into Poland and as are specified on a personal import declaration duly confirmed by the frontier currency control authorities.

(2) The following persons shall be regarded as domiciled in a foreign currency area for the purpose of this Instruction:

(ii) Any member of the staff of a foreign diplomatic, consular or other mission entitled to extraterritoriality who is resident in Poland, and members of his family who have taken up residence in Poland in consequence of his employment as a member of the staff of such mission.

14. (1) The frontier currency control authorities shall exercise control according to the principles and in the manner specified in this Instruction, or, in the absence of suitable provisions, according to the principles and in the manner prescribed for customs control.

¹ This time-limit may be extended at the request of the person domiciled in a foreign currency area.

(b) RESOLUTION No. 392 OF THE COUNCIL OF MINISTERS OF 30 MAY 1953
CONCERNING THE CURRENCY CONTROL OF POSTAL ITEMS ¹

1. (1) Ordinary or insured letters and ordinary or insured parcels sent to an address abroad shall be subject to currency control.

(2) Items specified in sub-paragraph (1) which contain merchandise shall also be subject to currency control, if they are sent from abroad.

(3) Items specified in sub-paragraphs (1) and (2) which are immune from search by virtue of any provisions of international law shall not be subject to currency control.

9. The rules for the exercise of currency control are set forth in the Instruction annexed to this Resolution.

*Annex to Resolution No. 392 of the Council of Ministers of
30 May 1953 (item 740)*

Instruction concerning the exercise of currency control over mail (Instruction concerning postal currency control)

IV. Items exempt from control by virtue of the Resolution 26. By virtue of paragraph 1 (3) of the Resolution, currency control regulations shall not apply to the official postal items specified in paragraph 15 (b) and (c) of the Instruction of the Minister of the Treasury of 24 September 1938, issued in consultation with the Minister of Foreign Affairs, concerning the procedure for the customs clearance of articles intended for persons entitled to extraterritoriality or for the official use of accredited diplomatic legations of foreign States, special foreign missions or foreign consular agencies (*Monitor Polski*, No. 229, item 500), provided that such items conform to the conditions set forth in that Instruction.²

V. EXEMPTION FROM COMPULSORY INSURANCE

(a) ACT OF 28 MARCH 1933 CONCERNING SOCIAL INSURANCE ³

Article 1. This Act relates to the following categories of insurance:

(1) Sickness and maternity insurance (articles 95 to 114);

(2) Insurance against the incapacity or death of the insured (articles 134 to 178);

(a) In consequence of an industrial accident or an occupational disease;

(b) In consequence of any other occurrence.

¹ *Monitor Polski*, 1953, No. 59, item 740.

² By virtue of special administrative regulations, currency control is similarly inapplicable to postal items sent by or addressed to any member of the diplomatic staff of a diplomatic mission.

³ *Dziennik Ustaw*, 1933, No. 51, item 396.

Article 2. (1) Except as provided in article 5, insurance shall be compulsory for every person, regardless of sex or age, engaged in gainful work or service.

Article 5. (1) The provisions of this Act requiring compulsory insurance shall not apply to the following:

5. Aliens employed by diplomatic or consular missions of foreign States or by international commissions;

(b) DECREE OF 25 JUNE 1954 CONCERNING THE UNIVERSAL PENSIONS SCHEME FOR WORKERS AND THEIR FAMILIES ¹

Article 1. (1) The universal pensions scheme shall constitute a system of compulsory insurance of workers and their families.

(2) The universal pensions scheme shall be financed from a State fund maintained by contributions from the employer undertakings; no deductions of any kind shall be made from the remuneration of the workers.

Article 2. Benefits under the universal pensions scheme shall be paid to the following:

- (1) To workers, on attaining old age or in the event of disability;
- (2) To the families of workers or pensioners, in the event of the death of the breadwinner.

Article 5. (1) Aliens employed by legations or missions of foreign States or by international agencies or commissions shall not be regarded as workers within the meaning of this Decree.

(c) ORDER OF THE MINISTER OF THE TREASURY OF 20 APRIL 1948 CONCERNING THE COMPULSORY INSURANCE OF BUILDINGS AGAINST FIRE ²

1. The initials PZUW used in this Order denote the General Mutual Insurance Institute (*Powszechny Zakład Ubezpieczeń Wzajemnych*).

2. Except as provided in paragraph 3, all buildings situated within the territory of the Polish Republic shall be subject to compulsory insurance against fire with the PZUW.

3. (1) The following buildings shall not be subject to compulsory insurance against fire:

(b) Subject to reciprocity, buildings which are the property of a foreign State and are occupied by the embassy, legation, consulate or other mission of such State.

¹ *Ibid.*, 1954, No. 30, item 116.

² *Ibid.*, 1948, No. 26, item 178. Issued in consultation with the Ministers of Agriculture and Land Reform, Public Administration and Recovered Territories.

VI. EXEMPTION FROM DUTY TO CONTRIBUTE IN KIND OR TO RENDER PERSONAL SERVICES

(a) DECREE OF 23 APRIL 1953 CONCERNING DISASTER RELIEF CONTRIBUTIONS ¹

Article 1. A disaster within the meaning of this Decree is any elemental occurrence which:

- (1) Endangers the lives or property of a large number of persons, or
- (2) Is liable to cause serious disturbances, necessitating organized public countermeasures, to the national economy.

Article 4. (1) With a view to organized public countermeasures, the following personal services and contributions shall be required:

- i. The administration of first aid to victims of accidents;
- ii. The provision of accommodation for disaster victims for such time as may be necessary for purposes of first aid and shelter;
- iii. The safe-keeping and protection of the property of victims;
- iv. The protection of threatened livestock (provision of pasture and shelter);
- v. Standing guard with a view to preventing the disaster from spreading;
- vi. The performance of specified work;
- vii. The supply of necessary implements;
- viii. The provision of means of transport and any necessary auxiliary equipment.

Article 5.

(2) The Council of Ministers shall specify by Order the procedure for calling upon persons to render personal services and to make contributions in kind, the principles governing such services and contributions and the categories of persons exempt from the duty.

(b) ORDER OF THE COUNCIL OF MINISTERS OF 14 JULY 1953 ¹ (ISSUED PURSUANT TO ARTICLE 5 OF THE DECREE CONCERNING DISASTER RELIEF CONTRIBUTIONS)

1. The articles cited on this Order without further specification are the articles of the Decree of 23 April 1953 concerning disaster relief contributions.

¹ *Dziennik Ustaw*, 1953, No. 23, item 93.

² *Ibid.*, 1953, No. 37, item 158.

10. (1) The following persons shall not be required to perform any of the duties specified in article 4 (1), sub-paragraphs 5 and 6:

(4) Aliens entitled to extritoriality.¹

(c) ACT OF 10 DECEMBER 1920 CONCERNING THE CONSTRUCTION AND MAINTENANCE OF PUBLIC HIGHWAYS IN THE POLISH REPUBLIC ²

CHAPTER IV. *Contributions in kind to highway construction and maintenance*

Article 29. In the event of any threat to or interruption of communications resulting from an accident attributable to the forces of nature such as a snow drift, a flood or a landslide, the State administrative organs of the first instance or, in urgent cases, the communal authorities may requisition means of transport and labour for work on State and district highways; payment for such means of transport or labour shall be made from the appropriate highways fund, the amount being determined by the district administration or, in towns not included in districts, by the town council.

Article 30. Persons entitled to extritoriality by virtue of international law, professional consuls authorized to perform their duties in Poland and professional consular officials who are nationals of the sending State shall be exempt, subject to reciprocity, from the requisitioning of labour and means of transport in the cases provided for in article 29, in respect of vehicles used for official purposes.³

(d) ORDER OF THE COUNCIL OF MINISTERS OF 5 SEPTEMBER 1951 CONCERNING THE PROVISION OF TRANSPORT FACILITIES ⁴

1. (1) The duty to provide transport facilities for general economic purposes extends to the transport of the following:

- i. Agricultural products, from collection points to railway centres or places of storage;
- ii. Agricultural products and fuel, from railway stations or places of storage to retail distribution outlets or direct to major consignees;
- iii. Other commodities, from railway stations, where need arises to relieve rail traffic congestion;
- iv. Work gangs, implements and materials required for control of plant pests or diseases or contagious animal diseases;
- v. Work gangs and implements for the removal of snow from public highways.

¹ By virtue of special administrative regulations, this exemption extends to diplomatic and consular establishments and to alien members of the staffs of such establishments.

² *Dziennik Ustaw*, 1948, No. 54, item 433. Consolidated text of 8 October 1948.

³ By virtue of special administrative regulations, this exemption also extends to diplomatic and consular establishments and to the non-diplomatic staffs of diplomatic legations. The exemption also covers vehicles used for private purposes.

⁴ *Dziennik Ustaw*, 1951, No. 41, item 359, as amended by the Order of the Council of Ministers of 16 September 1953 (*ibid.*, 1953, No. 43, item 214).

(2) The Minister of Land and Air Transport, in consultation with the Director of the State Economic Planning Commission and with the consent of the President of the Council of Ministers, may, by Order and for a specified time, extend the duty to provide transport facilities to cover other general economic purposes not specified in sub-paragraph (1).

(3) The President of the Council of Ministers may by Order require persons to provide transport facilities for public purposes of national importance.

(4) Transport facilities shall be placed at the disposal of the State administration and of units of the socialized sector of the economy.

2. (2) The provision of transport facilities shall not extend to the following:

ii. Passenger motor-cars belonging to political parties, to persons entitled to exterritoriality,¹ to the health service or to the Polish Red Cross Society.

(e) ACT OF 30 MARCH 1939 CONCERNING UNIVERSAL COMPULSORY CONTRIBUTIONS IN KIND ²

Article 1. The universal duty to make contributions in kind shall include:

1. The duty to give information regarding property subject to requisition;

2. The duty to prepare for such action as the exigencies of national defence or of war conditions may require (the duty to prepare to make contributions in kind);

3. The duty to surrender to the State property subject to requisition and for that purpose to comply with other orders of the authorities (the duty to make contributions in kind).

Article 4. (1) A requisition order may be issued in respect of any property (movable or immovable) or right necessary for the defence of the State.

(2) A requisition order may be issued in respect either of any existing property or right, or of any future property or right (product or work, crops).

Article 5. (1) The general duty to make contributions in kind shall not apply to:

1. Properties or rights which are immune from requisition by virtue of any provisions of international law, or of international custom;

¹ By virtue of special administrative regulations, no motor-cars belonging to diplomatic or consular establishments or to members of the staffs of such establishments may be required for the above services.

² *Dziennik Ustaw*, 1939, No. 30, item 200.

(f) ORDER OF THE PRESIDENT OF THE REPUBLIC OF 24 OCTOBER 1934
CONCERNING PERSONAL SERVICES ¹

Article 1. (1) On the outbreak of war or on mobilization, the population throughout the territory of the State shall *ipso jure* be under a duty to perform for remuneration, on behalf of the State, such work and services as may be directly or indirectly necessary for national defence (personal services).

(2) The Council of Ministers may by Order require the population in the whole or any part of the State to perform personal services:

1. Where such services are necessary in the interests of national defence, as confirmed by a resolution of the Council of Ministers;

2. On the proposal of the Minister of the Interior, if the general administrative authorities indirectly co-operating in such military exercises as may have been ordered lack adequate means for the performance of the tasks connected with such exercises.

. . . .

Article 3. (1) Personal services may take the form of any kind of human labour, either physical or intellectual.

. . . .

Article 4. (1) The performance of personal services may be required of every inhabitant of Poland, of either sex, between the ages of seventeen and sixty years, with the exception of the following:

. . . .

7. Subject to reciprocity, persons entitled to extritoriality, members of the professional staffs of foreign consular agencies and members of their families where such persons are nationals of the sending State.²

. . . .

Article 11. (1) The Council of Ministers may, even in peace-time:

1. Require the registration of persons engaged in specified occupations and not exempt from the duty to perform personal services by virtue of any provision of this Order, if it considers that the necessary information regarding those persons cannot be obtained by other means;

. . . .

(2) The Ministers of War and the Interior, in consultation with such other Ministers as may be concerned, shall specify by Order the registration authorities (sub-paragraph (1) . . . and the procedure for registration.

. . . .

¹ *Ibid.*, 1939, No. 55, item 354. Consolidated text of 14 June 1939.

² By virtue of special administrative regulations, this exemption also extends to the non-diplomatic staffs of diplomatic legations and to members of their families.

(g) ORDER OF THE MINISTERS OF WAR, THE INTERIOR, SOCIAL WELFARE AND AGRICULTURE AND LAND REFORM OF 27 JANUARY 1936 CONCERNING PERSONAL SERVICES ¹

(1) The articles cited in this Order without further specification are articles of the Order of the President of the Republic of 24 October 1934 concerning personal services

8. (1) Persons who are *ipso jure* exempt from the performance of personal services shall not be called upon to perform the same.

(2) The following shall be regarded as sufficient proof of the existence of circumstances justifying the exemption of such persons from the performance of personal services:

h. In the case of any person specified in article 4 (1), sub-paragraph 7, an identity document issued by the Ministry of Foreign Affairs.

(3) An exemption *ipso jure* from the performance of personal services shall remain valid so long as the circumstances justifying such exemption subsist.

(h) ORDER OF THE COUNCIL OF MINISTERS OF 30 MAY 1939 CONCERNING THE DUTY TO REGISTER AND FURNISH INFORMATION IN CONNEXION WITH PERSONAL SERVICES ²

Pursuant to article 11 (1) of the Order of the President of Republic of 24 October 1934 concerning personal services . . . be it hereby ordered as follows:

1. (1) Every person qualified to render a professional service in industry, commerce, agriculture, communications or any other field of potential importance to national defence shall be under a duty to register; the registration of specific categories of persons shall be ordered by the Minister of Social Welfare, in consultation with the Ministers of War, Agriculture and Land Reform, Industry and Commerce, and Communications.

(2) The persons specified in article 4 (1) sub-paragraphs 1 to 7 of the Order of the President of Republic of 24 October 1934 concerning personal services shall not be required to register.

(i) ACT OF 30 MARCH 1939 CONCERNING THE USE OF COMMUNICATIONS FOR NATIONAL DEFENCE PURPOSES ³

Article 2. (1) The provisions of this Act shall apply to the following means of communications:

¹ *Dziennik Ustaw*, 1936, No. 17, item 152. Issued in consultation with the Ministers of Foreign Affairs, the Treasury, Industry and Commerce, Communications and Post and Telegraphs, providing for the application of the Order of the President of the Republic of 24 October 1934 concerning personal services.

² *Ibid.*, 1939, No. 48, item 209.

³ *Ibid.*, 1939, No. 29, item 195.

1. Railways;
2. Post, telegraphs and telephones;
3. Maritime craft;
4. Inland navigation craft;
5. Aircraft;
6. Highways and vehicular traffic.

Article 3. The provisions of this Act shall apply to all means of communication specified in article 2 (1), whether the ownership thereof is vested in the State or in any other body corporate or individual, with the exception of means of communication which are the property of persons entitled to extritoriality, professional consuls of foreign States or members of their professional staffs, provided that such persons are nationals of the sending State and that such State extends reciprocal privileges.¹

Article 13. (1) On the outbreak of war or on mobilization, or in any other circumstances where such action is necessary in the interests of national defence, as confirmed by a resolution of the Council of Ministers, all means of communication shall be made available for purposes of national defence.

(j) ACT OF 18 JULY 1950 CONCERNING THE REQUISITIONING OF MEANS OF TRANSPORT FOR THE ARMED FORCES AND SECURITY SERVICE IN TIME OF PEACE²

Article 2. For the purpose of this Act, the expression "means of transport" includes animal-drawn vehicles, animals with harness, saddle or pack animals with equipment, water-borne means of transport, tractors, motor-cars, trailers, bicycles, motor-cycles, and all other motor vehicles and aircraft.

Article 4. The person . . . to whom a requisition order is addressed shall furnish:

1. The means of transport, in a fit condition for the carriage of persons and things, together with the necessary fuel or feed; and
2. A person or persons qualified to drive or direct the means of transport.

Article 5. (1) The following means of transport may not be requisitioned:

1. Subject to reciprocity, means of transport in the possession of diplomatic legations and persons entitled to extritoriality, and of consular officials and members of the staffs of such establishments, where such persons are nationals of the sending State.³

¹ By virtue of special administrative regulations, this exemption also extends to diplomatic and consular establishments and their staffs.

² *Dziennik Ustaw*, 1950, No. 36, item 322.

³ By virtue of special administrative regulations, this exemption extends also to consular agencies and to the non-diplomatic staffs of diplomatic legations.

(k) ACT OF 27 APRIL 1951 CONCERNING THE QUARTERING OF THE ARMED FORCES¹

PART I

General provisions

Article 1. (2) Quarters consist of the provision where necessary, for the housing and training of the armed forces, of the following:

1. Residential and non-residential premises (buildings and parts of buildings);
2. Land and sites.

Article 2. Quarters may be permanent or temporary.

Article 4. Permanent quarters shall be provided in buildings and premises under the administration of the military authorities and in buildings and premises rented for that purpose.

Article 16. (1) The following may not be requisitioned for temporary quarters.

4. Premises occupied by diplomatic representatives, diplomatic legations and consular agencies of foreign States and by members of the staffs of such legations and agencies, where such persons are nationals of the sending State, provided that the sending State extends reciprocal privileges; or by international agencies or persons entitled to diplomatic privileges pursuant to international conventions.

VII. EXEMPTION FROM PROVISIONS CONCERNING THE PUBLIC ADMINISTRATION OF PREMISES

(a) DECREE OF 21 DECEMBER 1945 CONCERNING THE PUBLIC ADMINISTRATION OF PREMISES²

CHAPTER I

General provisions

Article 1. With a view to ensuring the rational utilization of available premises, in the conditions of shortage resulting from the War, and the planned provision of premises for public needs, the administration of residential and non-residential premises shall be vested in the public, in accordance with the provisions of this Decree, until the reconstruction of devastated towns and settlements ensures an adequate supply of premises for public institutions and for the needs of the inhabitants of such towns and settlements.

¹ *Dziennik Ustaw*, 1951, No. 26, item 194.

² *Ibid.*, 1950, No. 36, item 343. Consolidated text of 16 August 1950.

Article 2. (1) All premises situated in Warsaw, Lodz, Gdańsk, Lublin, Cracow, Katowice and Poznań shall be under public administration.

2. On the request of a Provincial People's Council, the Council of Ministers may by Order place under public administration all or any of the premises situated in any other town or commune.

Article 3. (1) The provisions of this Decree shall not apply to the following:

6. Premises occupied by diplomatic legations, by persons entitled to extritoriality or by consular agencies¹ subject to the conditions prescribed by the Minister of Communal Economy in consultation with the Minister of Foreign Affairs;

(b) ORDER OF THE MINISTER OF COMMUNAL ECONOMY OF 17 MARCH 1953 CONCERNING THE CONDITIONS FOR THE OCCUPATION OF BUILDINGS AND PREMISES BY DIPLOMATIC LEGATIONS AND ALIEN MEMBERS OF THEIR STAFFS, AND BY CONSULAR AGENCIES AND MEMBERS OF THEIR STAFFS WHO ARE NATIONALS OF THE SENDING STATE²

Pursuant to article 3 (6) of the Decree of 21 December 1945 concerning the public administration of premises (*Dziennik Ustaw*, 1950, No. 36, item 343), be it hereby ordered as follows:

1. Buildings and residential or non-residential premises occupied by diplomatic legations and alien members of their staffs or by consular agencies and members of their staffs who are nationals of the sending State, where they have been allocated in the manner and on the conditions specified in this Order, shall not be subject to the provisions of the Decree concerning the public administration of premises.

2. The buildings and premises specified in paragraph 1 shall be allocated by the Ministry of Communal Economy on the application of a legation, agency or person referred to in paragraph 1 submitted through the Ministry of Foreign Affairs.

3. Every allocation order shall be in writing and shall be delivered to the person concerned through the Ministry of Foreign Affairs.

4. Every allocation shall be to a named person, and the building or premises allocated may not be exchanged, let or rented (under-let).

5. The legation, agency or person indicated in the allocation order shall pay the rent due in accordance with the provisions of the Decree of 28 July 1948 concerning the leasing of premises (*Dziennik Ustaw*, 1950, No. 51, item 479), as amended, the amount of rent payable for residential premises being determined in accordance with article 2 of that Decree.

6. Legations, agencies or persons specified in paragraph 1 intending to vacate buildings or premises allocated to them shall notify such intention

¹ This exemption also extends to other premises specified in paragraph 1 of the Order of the Minister of Communal Economy of 17 March 1953.

² *Monitor Polski*, 1953, No. 37, item 467.

to the Ministry of Communal Economy through the Ministry of Foreign Affairs stating the date on which the buildings or premises are to be vacated.

7. The Ministry of Communal Economy, on receipt of applications submitted in the manner prescribed in paragraph 2, shall deliver to the legations, agencies and persons specified in paragraph 1 allocation orders in respect of buildings or premises occupied by them before the date of entry into force of this Order.

8. (1) Rent paid in advance before the promulgation of this Order for a fixed period of tenancy or occupation of any buildings or premises specified in paragraph 7 shall be recognized as valid payment in respect of such period, provided that proof of payment is submitted to the Ministry of Communal Economy through the Ministry of Foreign Affairs.

(2) Current and overdue rent in respect of any buildings or premises specified in paragraph 7 shall be determined in conformity with paragraph 5.

VIII. EXEMPTION FROM RESTRICTIONS ON THE USE OF MOTOR VEHICLES

(a) ORDER OF THE COUNCIL OF MINISTERS OF 20 AUGUST 1955 CONCERNING THE USE OF CERTAIN MOTOR VEHICLES

1. (1) No individual or non-socialized undertaking may use a lorry or semi-trailer of more than 0.75 tons load powered by a low compression unit (fitted with a carburettor) driven by liquid fuel.

(2) Lorries and semi-trailers not covered by the prohibition in subparagraph 1 and other prime-movers and trailers may be used by individuals and non-socialized undertakings, provided that:

i. The vehicle is to be used for a duly authorized public transport service; or

ii. The Provincial People's Council (or, in Warsaw or Lodz, the People's Council) has ruled that the use of the vehicle is necessary for the performance by its owner of his economic activity or profession.

2. (1) No person may use a lorry, semi-trailer or primemover with load-carrying trailer for the private transport of persons on a public highway, unless the vehicle conforms to the provisions governing the transport of persons.

4. This Order shall not apply to vehicles belonging to persons entitled to extritoriality.²

(b) ORDER OF THE MINISTERS OF COMMUNICATIONS, THE INTERIOR AND WAR OF 27 OCTOBER 1937 CONCERNING MOTOR VEHICLE TRAFFIC ON PUBLIC HIGHWAYS³

1. (1) For the purposes of this Order, the expression "motor vehicle" means any vehicle driven by an attached motor and not running on rails.

¹ *Dziennik Ustaw*, 1955, No. 36, item 225.

² This provision also applies to diplomatic and consular establishments and alien members of their staffs.

³ *Dziennik Ustaw*, 1937, No. 85, item 616. Issued in consultation with the Minister of Social Welfare.

33. (5) No person may cover or embellish in any manner whatsoever any registration plates or test plates or place on the front or rear of a motor vehicle any sign not expressly authorized under this Order, other than the following signs:

(a) Manufacturers symbols; (b) diplomatic corps plates (CD); (c) national plates; (d) city plates, and (e) automobile, motor-cycle or touring club badges.

IX. SPECIAL PROVISIONS CONCERNING COMMUNICATIONS

(a) DECREE OF 11 MARCH 1955 CONCERNING COMMUNICATIONS ¹

Article 1. (1) This Decree defines the principles for the administration and operation of the following means of communications: posts, telegraphs, telephones and wireless (telecommunications, broadcasting and television).

Article 9.

(2) The Minister of Communications, in consultation with the Minister of Foreign Affairs, shall make regulations governing the matters dealt with in this Decree which concern diplomatic legations and consular agencies.²

(b) ORDER OF THE MINISTER OF POST AND TELEGRAPHS OF 6 NOVEMBER 1952 CONCERNING THE EXEMPTION FROM REGISTRATIONS AND WIRELESS LICENCE FEES OF THE DIPLOMATIC AND CONSULAR AGENTS AND ESTABLISHMENTS OF FOREIGN STATES ³

1. Subject to reciprocity, the following establishments and persons shall be exempt from the payment of wireless licence fees and from the duty to register wireless receiving equipment:

- (a) Diplomatic and consular establishments of foreign States;
- (b) Chiefs of diplomatic and consular missions of foreign States;
- (c) Diplomatic staffs of foreign diplomatic missions;
- (d) Consuls-general, consuls and vice-consuls of foreign States . . .

2. Exemption from the payment of wireless licence fees shall be granted to occupiers of residential premises who hold an identity document, issued by the Ministry of Foreign Affairs, of any of the following categories:

(1) The "Diplomatic Identity Card", coloured pink, confirming that the holder "is a member of the diplomatic corps" (chiefs and diplomatic staffs of diplomatic missions);

(2) The "Identity Card", coloured green, confirming that the holder is a consul-general, consul or vice-consul;

(3) As regards the premises of establishments specified in sub-paragraph (a) above, the premises of a diplomatic establishment shall be confirmed as such by the holder of a Diplomatic Identity Card (see sub-para-

¹ *Ibid.*, 1955, No. 12, item 71.

² These regulations have not yet been made.

³ *Dziennik Poczty i Telekomunikacji*, 5 December 1952, No. 23.

graph (1) above, while the premises of a consular agency shall be confirmed as such by the chief of the agency holding an Identity Card, as specified in sub-paragraph (2) above).

The aforesaid identity documents shall contain a photograph of the holder, shall bear the seal of the Ministry of Foreign Affairs and shall be valid for a specified term.

. . .

X. PRIVILEGES REGARDING THE POSSESSION OF ARMS

(a) ORDER OF THE PRESIDENT OF THE REPUBLIC OF 27 OCTOBER 1932 CONCERNING ARMS, AMMUNITION AND EXPLOSIVES

I. *Introductory Provisions*

Article 1. (1) For the purposes of this Order, the term "arms" means any implement designed to cause direct or indirect bodily harm.

. . .

V. *Acquisition, possession and carrying of arms or ammunition for personal purposes and surrender of arms and ammunition*

Article 18. (1) A person may acquire, possess or carry arms for personal purposes only if he holds a permit issued by the authorities.

. . .

Article 21. (2) In the case of representatives of foreign States and members of foreign diplomatic legations, the identity document issued by the Ministry of Foreign Affairs shall be equivalent to an arms permit (article 18 (1)).

. . .

Article 27. (1) Arms and ammunition may be surrendered, whether temporarily or permanently, only to a person entitled to acquire the same under the provisions of this Order.

. . .

Portugal ²

(a) ACT No. 1368. EXEMPTION FROM PERSONAL INCOME TAX

. . .

Article 90. The following shall be exempt from this tax:

. . .

2. The income of members of the foreign diplomatic and consular corps, in so far as it accrues from their employment as such, and provided that reciprocal treatment is granted in their respective countries to Portuguese diplomatic and consular personnel.

¹ *Dziennik Ustaw*, 1932, No. 94, item 807.

² The texts of Laws and Regulations reproduced under Portugal have been provided by the Permanent Mission of Portugal to the United Nations. Translation by the Secretariat of the United Nations.

(b) EXTRACT FROM NOTE No. 443 OF 20 JANUARY 1952 ISSUED BY THE
DIRECTORATE GENERAL OF TAXES AND DUTIES

Diplomatic and consular officials employed by foreign countries, who are serving in continental Portugal or the adjacent islands, shall be exempted from taxation in respect of remuneration for their official duties, in accordance with the principle laid down in the instructions issued by the Under-Secretary of the Ministry of Finance on 7 September 1935 (page 250 of the 1935 *Boletim*).

(c) DECREE No. 16731 OF APRIL 1929 ON TAXATION REFORM

Article 114. The following shall be exempted from inheritance tax and from the tax on transfers of immovable property for valuable consideration:

(g) Subject to reciprocity, a foreign Government in respect of the acquisition of buildings and their annexes to serve as premises for its Embassy or Legation.

This exemption applies to dues in respect of the redemption of ancient rights, servitudes and other charges on the property concerned.

(d) ACT No. 1368. EXEMPTION FROM THE INDUSTRIAL TAX

Article 11. The following shall be exempt from the tax:

4. Members of the foreign diplomatic and consular corps, in respect of income accruing from their employment, provided reciprocal treatment is granted by their respective countries to the representatives of Portugal.

(e) REGULATIONS APPROVED BY DECREE No. 20365 OF 3 OCTOBER 1931

CHAPTER III

Tax on Ship Passages

Article 24. The following are exempted from the tax on ship passages:

5. Passages for foreign diplomatic and consular officials accredited to Portugal, and their dependents, provided they prove that reciprocity of treatment is granted in their respective countries.

The above exemption was made applicable to air passages by two orders issued by the Ministry of Communications on 27 March and 27 August 1947 respectively.

(f) LEGISLATIVE DECREE No. 24458 OF 3 SEPTEMBER 1934

TITLE III

CHAPTER VII

Persons from whom payment of the tax on maritime traffic is not due

Article 30. The tax on maritime traffic shall not be due:

e. In respect of the embarkation and landing of foreign diplomatic officials accredited to Portugal, and their dependents, provided that reciprocity of treatment is granted to Portuguese diplomatic officials by their respective countries.

(g) DECREE No. 17224 OF 14 AUGUST 1929

Article 1. A system of reciprocity shall be established for foreign embassies and legations accredited to the Portuguese Government in respect of the payment of any taxes, licences or fees for the purposes of travel on highways, or obtaining, replacing or transferring documents concerning automobiles owned by such embassies and legations.

Sole paragraph. Under the above-mentioned system of reciprocity exemption shall be granted from the maritime trade tax in the case of the embarkation or debarkation of ambassadors, plenipotentiary or resident ministers and chargés d'affaires and also from the taxes referred to in Decree No. 14647 of 3 December 1927.

Article 2. A request to benefit under article 1 shall be made by embassies or legations directly to the Ministry of Foreign Affairs.

Article 3. Customs clearance certificates shall be delivered in the Customs Office on a request sent directly to the Customs Office by the chiefs of mission concerned in respect of articles which are imported by ambassadors, plenipotentiary or resident ministers and chargés d'affaires accredited to the Government of the Republic and are duty-free under the provisions of article 62 (1) of the preface to the Customs schedules.

Article 4. Exemption from the stamp tax shall apply not only to the customs clearance certificates mentioned in the preceding article but also to the documents of ownership which, under the laws in force, have to be verified and authenticated at the Customs Office in order to serve as a justification for the above-mentioned clearance certificates; the same exemption shall also apply to any requests or declarations concerning such certificates.

Sole paragraph. No other taxes or duties shall be payable to the Customs authorities except for the cost of storage when due.

Article 5. Chiefs of missions may cause themselves to be represented at Customs offices in all matters which concern them, by agents whom they have duly appointed by means of a signed declaration delivered to the General Directorate of Customs by the Ministry of Foreign Affairs.

Article 6. The statistical returns relating to clearance certificates delivered in accordance with this Decree shall be completed by the examining officials.

Article 7. The preceding provisions shall be applicable to articles connected with the initial installation of diplomatic and consular officers of foreign nationality, the relevant requests to be submitted by the respective chiefs of mission; the same shall apply to requests concerning the clearance certificates referred to in the Sole paragraph of this article.

Sole paragraph. The applicable provisions of this Decree shall also extend to temporary import clearance certificates which shall include exemption from deposit of security against payment of duties and cover crates for the transportation of furniture (upholstered furniture and the like); the said clearance certificates shall be valid both for the entry and exit of furnishings and articles for the domestic use of chiefs of mission, officials of the embassies or legations and chief consular officers (provided that they are of foreign nationality) who are coming to serve in Portugal or who have just terminated their mission.

Article 8. The clearance certificates to be made for the export of furnishings and objects for the domestic use of chiefs of mission, officials of the respective embassies or legations and chief consular officers (provided that they are of foreign nationality) who have just terminated their mission, shall be delivered in accordance with the provisions of this Decree, where applicable.

. . .

Article 10. The Ministry of Foreign Affairs shall be responsible for providing the Customs authorities with lists of chiefs of mission accredited to the Government of the Republic and keeping such lists up to date; the Ministry of Foreign Affairs shall also provide the said Customs authorities with all the information necessary for exact compliance with the provisions of this Decree.

Article 11. Chiefs of mission shall upon a request made by them through the Ministry of Foreign Affairs receive from the General Directorate of Customs a certificate of free transit for automobiles belonging to them enabling the said vehicles to enter and leave Portugal freely, without any Customs formalities except the summary identification of the vehicle.

1. The certificate referred to in the present article shall be delivered on the understanding that an undertaking is given that, at the time of entry or departure at the frontier, the automobiles shall transport only chiefs of mission, members of their families or invited guests, or embassy or legation officials and employees, in addition to the chauffeur.

2. The reverse side of the certificate shall contain full particulars of the automobile so as to allow of a summary identification of the vehicle; the certificate shall be returned to the Ministry of Foreign Affairs when the diplomat ceases to exercise the post of chief of mission.

Article 12. No doubts or complaints by members of the diplomatic or consular corps with reference to the application and administration of the provisions of this Decree shall be considered unless submitted through a diplomatic or consular channel to the Ministry of Foreign Affairs and referred by that Ministry to the competent authorities.

. . .

(h) DECREE NO. 19224 OF 6 JANUARY 1931

Article 1. In addition to the exemptions specified in Decree No. 17224 of 14 August 1929, chiefs of mission accredited at Lisbon are hereby granted, subject to reciprocity, exemption from payment of all duties, taxes and dues of the port of Lisbon.

(i) DECREE NO. 23427 OF 13 DECEMBER 1933

Sole article. The following provision shall be added to the chapter entitled "other exemptions" annexed to the general stamp duty schedule adopted by Legislative Decree No. 21916 of 28 November 1932:

"XLV. Clearance certificates concerning articles imported by Ambassadors, Ministers Plenipotentiary, Ministers Resident, and Chargés d'Affaires, accredited to the Government of the Republic, and exempted from duty in accordance with article 62 of the preliminary Tariff instructions, as well as all documents of ownership which, in accordance with legislation in force, must be produced and legalized for the purposes of such customs clearance and any applications or statements referring to the said clearance."

(j) DECREE NO. 28670 OF 18 MAY 1938.

PRELIMINARY INSTRUCTIONS CONCERNING THE CUSTOMS TARIFF

Article 92. The following shall be exempt from payment of import duties:

1. Subject to reciprocity, articles imported by heads of missions accredited to Portugal, in conformity with diplomatic usage and in accordance with Decree No. 17224 of 14 August 1929;

2. Flags, seals, coats-of-arms, and official stationery and forms, as well as office furniture intended for the use of consuls accredited to our country, likewise subject to reciprocity;

Article 99. In the case of the installation of an official of a diplomatic mission accredited to the country, or of a foreign consul, the furniture, clothing and other articles of personal and household use belonging to them shall be treated as baggage in accordance with article 94, (2), without requirement of the formalities prescribed in sub-paragraph (b) of that article and the provisions of Decree No. 17224 of 14 August 1929.

(k) LEGISLATIVE DECREE NO. 32312 OF 9 OCTOBER 1942

Considering that it is necessary to provide regulations for the registration with the Traffic Department of motor cars imported by members of the diplomatic corps and career consuls;

In view of the desirability of providing a single distinctive symbol so that all diplomatic corps vehicles may be easily identified by the authorities and be accorded by them the treatment which is customary;

By virtue of the powers conferred upon it by article 109, paragraph 2, second part, of the Constitution, the Government hereby promulgates the following Legislative Decree:

Article 1. Subject to reciprocity, members of the diplomatic corps accredited to the Portuguese Government, and career consuls, shall be granted, upon application made in accordance with Decree No. 17,224 of 14 August 1929, exemption from import duty in respect of passenger motor cars intended for their use, within the following limits:

(a) Up to three motor cars, in the case of chiefs of diplomatic missions, whether the vehicles are imported in the name of the chief of mission personally or in that of the mission;

(b) One motor car, in the case of other diplomatic officials appearing in the list of the diplomatic corps published by the Ministry of Foreign Affairs;

(c) One motor car, in the case of career consuls.

Sole paragraph. In the event of change of ownership as provided in article 2, paragraph 1, first part, the exemption from duties provided in this article shall continue to apply.

Article 2. Motor cars imported in accordance with the previous article shall, at the request of the Ministry of Foreign Affairs, be registered with the Directorate-General of Traffic Services in the name of the owner concerned, the latter's post being listed, or in the name of the diplomatic mission to which the vehicles belong, in accordance with the provisions of article 9 of Act No. 1955 where applicable. The series of registration numbers beginning with the letters C.D. shall be reserved for the vehicles specified in sub-paragraphs (a) and (b) of the previous article; the letters, figures and lines on the registration plates shall be red on a white background.

(1) If there is a change in the ownership of a vehicle registered in accordance with this article, the registration number shall be retained, or shall be replaced by another number in the C.D. series, if the new owner is a member of the diplomatic corps entitled to use the car within the limits prescribed in article 1. In all other cases of change of ownership, the registration number belonging to the C.D. series shall be replaced by a number from a different series.

(2) If the diplomatic agent concerned ceases to perform his duties in Portugal and no change of ownership as specified in the first part of the previous paragraph takes place, the vehicle's registration shall be cancelled.

Article 3. The provisions of Ordinance 9,716 of 31 December 1940 shall not apply to the importation of motor cars by the entities specified in article 1 of this Legislative Decree.

No change in the ownership of light motor cars imported by such entities may take place until two years after the date of importation, except in the cases to which the first part of paragraph 1 of the previous article refers.

Article 4. In order to ensure their registration with the Directorate-General of Traffic Services, the Ministry of Foreign Affairs shall, within thirty days of the date of this Legislative Decree, request all chiefs of diplomatic missions and all career consuls to supply a list of motor cars registered in their names or in those of their missions, with an indication of the manner in which the vehicles are to be allocated for purposes of the limitations specified in article 1.

The registration numbers of any vehicles in excess of the limits specified in sub-paragraphs (a) and (b) of article 1 shall be replaced by numbers designated by the Directorate-General of Traffic Services and the Ministry of Foreign Affairs shall notify those concerned, so that the change of registration may be effected within thirty days.

Article 5. The registration plates to which the final part of article 2 refers shall be supplied by the Ministry of Foreign Affairs and shall constitute the sole means of identification recognized by the Portuguese authorities for motor cars belonging to members of the diplomatic corps; these plates shall be returned to the Ministry of Foreign Affairs in all cases in which registration has been replaced or cancelled in accordance with paragraphs 1 and 2 of article 2.

Article 6. Subject to reciprocity, the Directorate-General of Traffic Services may issue, in the cases specified in article 1, a document enabling the person concerned to drive the motor car in Portugal, provided that such person holds a driving licence issued in his own country and that he applies for the document in question through the Ministry of Foreign Affairs.

Sole paragraph. The document referred to in this paragraph may be withdrawn if any serious doubts arise concerning the validity of the foreign licence or the ability to drive of the person to whom the said document has been issued.

Article 7. So long as the present motor fuel supply difficulties continue, the Ministry of Public Works and Communications may, in consultation with the Ministry of Foreign Affairs, order such restrictions as the needs of the country may require concerning the circulation of motor cars subject to the provisions of article 1.

Article 8. Any doubts which may arise regarding the enforcement of this Legislative Decree shall be resolved by the Ministry of Finance, or by the Ministry of Public Works and Communications, as the case may be, in consultation with the Ministry of Foreign Affairs.

Article 9. The present Legislative Decree supersedes Legislative Decree No. 32-216 of 22 August 1942, which is hereby repealed.

(1) DECREE NO. 32844 OF 12 JUNE 1943

Considering that Legislative Decree No. 32-312 of 9 October 1942 exempts from duty all motor cars imported in metropolitan Portugal for the use of members of the diplomatic corps and of career consuls;

Recognizing that it is desirable that this exemption should apply to the whole of Portuguese territory;

In consultation with the Ministry of Foreign Affairs;

In accordance with the provisions of article 28 of the Colonial Act and those of article 171 of the Organic Statute of the Portuguese Colonial Empire;

By virtue of the powers conferred upon it by article 10, paragraph 1 (4), of the said Organic Statute, and by reason of the urgency of the matter, in accordance with paragraph 2 of that article:

The Minister of the Colonies decrees and promulgates the following:

Article 1. Subject to reciprocity, each foreign career consul shall be granted exemption from duty in the Portuguese colonies in respect of one imported motor car.

Article 2. Motors car imported in accordance with the previous article shall be registered with the Automobile Technical Commission, or with the Public Works Office or Department, as the case may be in each of the Colonies, in the name of the owner concerned, the latter's function being listed in accordance with the provisions of Decree No. 32,113 of 1 July 1942 when applicable. The registration number of the registration plate of the motor cars concerned shall be preceded by the letters C.C. in red.

Sole paragraph. In the event of change of ownership of a motor car registered in accordance with this article, the same registration plate shall be retained if the new owner is a member of the consular corps. In all other cases, the registration plate shall be replaced by a registration plate not including the letters C.C.

Article 3. The exemption from duties referred to in article 1 shall continue to apply in the case of transfer of the ownership of the motor car to another foreign career consul who is entitled to use the car within the limits specified in that article, and also in the case of transfer to any other person after a period of five years from the date of importation.

Sole paragraph. If ownership of a car subject to the provisions of article 1 is transferred to any person other than a foreign career consul before five years have elapsed from the date of customs clearance, import duties shall be payable as follows:

- (a) In full, if less than two years have elapsed;
- (b) In the third year, 50 per cent of the duty which would have been due at the date of customs clearance;
- (c) In the fourth year, 30 per cent; and
- (d) In the fifth year, 10 per cent.

Article 4. A foreign career consul shall benefit from the exemption specified in article 1 in respect of the importation of a motor car to replace a car disposed of in accordance with the previous article, or one which has been removed from the traffic registers in accordance with the law.

Article 5. The exemption from duty specified in article 1 shall be granted at the consul's request by order of the Governor of the Colony concerned, in consultation with the Customs Directorate or Central Office, and after informing the departments referred to in article 2, so as to verify that no motor car imported free of duty is already registered in the applicant's name.

Article 6. The Minister of the Colonies is authorized to grant, subject to reciprocity, exemption from import duties, as well as from other duties collected by the Customs, in respect of articles and objects intended for the installation of a foreign career consul in the Portuguese Colonies.

The foregoing Legislative Decree shall be published in the Official Bulletin of all the Colonies except Macau.

(m) LEGISLATIVE DECREE NO. 39507 OF 2 JANUARY 1954

Considering the delay which frequently elapses between the date of Customs clearance of automobiles belonging to members of the diplomatic corps accredited in Libson and the date of their registration with the Automobile Ownership Registry;

In view of the fact that the scale of duties payable in respect of the sale of an automobile is based on the length of use and that there is no justifiable reason for reckoning such use only from the date of registration;

Considering further that other diplomatic officials, as well as career consuls, are also entitled to import automobiles free of duty, and that the privilege granted to members of the diplomatic corps in respect of the sale of such automobiles may be extended to them;

By virtue of the powers conferred upon it by article 109, paragraph 2, first part, of the Constitution, the Government hereby decrees and promulgates the following which shall have the force of law:

Article 1. Customs duty shall not be payable in respect of an automobile imported in accordance with the provisions of article 1 of Legislative Decree No. 32,312 of 9 October 1942 provided that a period of five years has elapsed from the date of its importation into the country and that the owner thereof makes a declaration to the effect that it is unfit for his use.

Customs duty shall likewise not be payable before the expiry of the aforesaid period of five years if the automobile is transferred to another member of the diplomatic corps or to a career consul within the limits specified in the above-mentioned Legislative Decree.

Sole paragraph. If ownership in an automobile covered by the provisions of this article is transferred before the expiry of the period laid down therein to any person whatsoever, from payment of duty, or to a member of the diplomatic or consular corps who is unable or unwilling to use the automobile within the limits specified in article 1 of Legislative Decree No. 32,312 of 9 October 1942, import duty shall be payable as follows:

- (a) In full, if less than two years have elapsed;
- (b) In the third year, 50 per cent of the duty;
- (c) In the fourth year, 30 per cent of the duty; and
- (d) In the fifth year, 10 per cent of the duty.

The Ministry of Foreign Affairs shall transmit to the Directorate-General of Customs the declaration of the Chief of Mission, official or career consul referred to in the previous article. The said declaration shall contain full particulars of the automobile and the name of the person to whom ownership is transferred.

Article 3. The competent technical department of the traffic services shall take all necessary steps to carry out registration as soon as it is notified by the Customs that clearance has been effected.

Article 4. If an automobile covered by this Decree becomes subject to duty, the minimum scale be applied provided that the place of origin is in a country to which such treatment is granted; identification of the manufacturer's trade mark shall be sufficient for purposes of taxation.

(n) DECREE No. 34176¹

Article 2. The Ministry of the Colonies may authorize the granting to foreign consuls in the Colonies of such customs exemptions as are reciprocally granted to Portuguese consuls by the Governments of the countries concerned.

Sole paragraph. The above-mentioned authorization shall be granted by means of instructions issued by the said Ministry in consultation with the Ministry of Foreign Affairs regarding the question of reciprocity.

¹ *Diário do Governo*, Series I, No. 269 of 6 December 1949.

(o) DECREE NO. 30,753 OF 14 SEPTEMBER 1940 (REGULATIONS RESPECTING RADIO-ELECTRIC INSTALLATIONS FOR RECEIVING RADIO BROADCASTS)¹

CHAPTER III

Licence fees

Article 19. The following are exempted from the payment of licence fees:

2. Foreign diplomatic agents and foreign career consular officers who are accredited on permanent mission to Portugal, provided that the accrediting country grants reciprocity of treatment;

Sole paragraph. The persons referred to in No. 2 above shall notify the Licences Department of the Portuguese Broadcasting Service of the existence of the radio-electric installations for receiving radio broadcasts which they intend to use and of the particulars thereof.

Article 21. The persons mentioned in article 19, No. 2 . . . shall be bound by all the obligations which attach to subscribers save in so far as the payment of fees is concerned.

(p) BILLETING OF TROOPS AND REQUISITIONING OF MOTOR CARS FOR MILITARY PURPOSES

(a) In accordance with article 83 (1) of the Regulations of the Military Requisitions Office, "diplomatic agents and those aliens who are exempted from all taxation in accordance with international conventions" shall be exempted from the billeting of troops.

(b) In accordance with the provisions of paragraph 7 (d) of Chapter I (Mobilization Instructions) of Circular No. 884/MT of 4 August 1944 issued by the Third Branch of the Army General Staff, vehicles used by the diplomatic and consular corps are exempted from requisitioning for military purposes.

(q) LEGISLATIVE DECREE NO. 37313 OF 21 FEBRUARY 1949

Article 48. The possession, use and carrying of weapons in accordance with article 1 (2) shall be permitted to the officials and bodies mentioned therein, as well as to any others included by decision of the Ministry of the Interior, at the request of the Ministry to which they belong, provided that such weapons are duly declared and that their holders obtain the necessary licence to use and carry weapons granted by the General Commandant of the Public Security Police.

¹ *Diário do Governo*, Series. 1, 1940, pp. 1054-56.

Article 50. Diplomatic representatives accredited to Portugal are authorized to carry small arms belonging to them; they shall, however, be required to obtain the card specified in article 48, application for such card being made through the Ministry of Foreign Affairs.

(r) ORDINANCE NO. 7366 OF 22 JUNE 1932

Article 20. Diplomatic and consular representatives accredited to our country shall be granted permission to carry defensive weapons subject to the provisions of articles 34, 36 and 37 of Decree No. 18754.

Roumanie¹

a) CODE PÉNAL

Article 7. La loi pénale roumaine ne s'applique pas:

1. Aux personnes qui, en vertu des traités ou règles de droit international, jouissent de l'immunité pénale.

b) DÉCRET N° 153 RELATIF À L'IMPÔT SUR LES REVENUS DE LA POPULATION²

Article 2. Sont exemptes d'impôts:

h) Les personnes qui font partie du Corps diplomatique et consulaire étranger, ainsi que les agents de presse étrangers, pour le salaire et les indemnités qu'ils reçoivent en cette qualité, sous condition de réciprocité.

c) DÉCRET N° 18 POUR L'ÉTABLISSEMENT DES IMPÔTS ET TAXES LOCALES³

Article 5. Sont exemptes d'impôts:

h) Les bâtiments appartenant aux ambassades, légations et consulats d'autres pays, occupés effectivement par ceux-ci, sous condition de réciprocité.

Article 16. Sont exemptes d'impôts:

f) Les terrains qui servent aux bâtiments exemptés de l'impôt sur les bâtiments.

¹ Le texte français des lois et règlements reproduit dans la section relative à la Roumanie a été fourni par le représentant permanent de la République populaire roumaine auprès de l'Organisation des Nations Unies.

² *Bulletin officiel* n° 22 du 11 mai 1954.

³ *Ibid.*, n° 4 du 18 janvier 1952.

d) LOI DES DOUANES N° 9 DU 1^{er} JANVIER 1949 ¹

Article 41. Sont exempts des droits d'importation conformément aux normes établis par la décision du Conseil des ministres prise en application de la présente loi :

1. Les objets, même de monopole, destinés aux membres du corps diplomatique représentant en R. P. R. des États étrangers, sous condition de réciprocité . . .

2. Les effets et les meubles de première installation des consuls de carrière étrangers remplissant leurs fonctions en R. P. R., ainsi que les registres, imprimés et fournitures de bureau, adressés aux consulats, sous condition de réciprocité.

e) RÈGLEMENT CONCERNANT LE RÉGIME DOUANIER APPLICABLE AUX REPRÉSENTATIONS DIPLOMATIQUES ET CONSULAIRES, À LEURS MEMBRES, AINSI QU'À D'AUTRES PERSONNES ÉTRANGÈRES, QUI VIENNENT EN MISSION OFFICIELLE EN R.P.R. OU QUI SONT DE PASSAGE PAR LA R. P. R.²

CHAPITRE I — LE CONTRÔLE DOUANIER

A. Exemptions de contrôle douanier

Article 1. Sont exempts de révision douanière, sur la base de la réciprocité, tant à l'entrée dans le pays qu'à la sortie, les bagages portatifs appartenant :

a) Aux membres du corps diplomatique ou consulaire accrédités en R. P. R. ainsi qu'à leurs familles ;

b) Aux personnes officielles, possesseurs de passeports diplomatiques, qui sont en visite en R. P. R. ou de passage par la R. P. R.

Article 2. L'on entend par bagages portatifs, les bagages qui accompagnent dans le même train, bateau, avion ou automobile, les personnes prévues ci-dessus.

Article 3. Les bagages appartenant aux personnes mentionnées à l'article 1 peuvent être soumis à la révision douanière dans des cas exceptionnels sur la base d'une disposition spéciale de la Direction des douanes.

B. Soumis au contrôle douanier

Article 4. Sont soumis au contrôle douanier :

a) Les bagages des personnes prévues à l'article 1, mais qui n'accompagnent pas ces personnes. Le contrôle douanier pour ces bagages se fait uniquement dans le bâtiment de la douane.

b) Les bagages du personnel administratif et de service des offices diplomatiques et consulaires étrangers, ainsi que ceux appartenant aux personnes qui sont au service personnel des membres du corps diplomatique et consulaire en R. P. R.

c) Les transports arrivés par n'importe quelle voie à l'adresse des offices diplomatiques et consulaires, ou transmis par ceux-ci à l'étranger.

¹ *Ibid.*, du 1^{er} janvier 1949.

² Approuvé par la décision du Conseil des ministres n° 779 du 26 juillet 1951 (*Bulletin officiel* n° 83 du 31 juillet 1951).

CHAPITRE II. — TAXES DOUANIÈRES

A. *Exemptions à l'entrée dans le pays*

Article 5. Sont exempts de taxes douanières, sur la base de la réciprocité:

- a) Les bagages portatifs accompagnent les personnes énumérées à l'article 1;
- b) Les bagages personnels et d'installation appartenant aux membres du corps diplomatique et consulaire étranger en R. P. R., ainsi que ceux du personnel administratif et de service, au cas où ils accompagnent leur propriétaire ou arrivent dans le pays au plus tard 6 mois après la date de l'installation de leur propriétaire dans son poste.

B. *Exemptions durant le séjour dans le pays*

Article 6. Sur la base de la réciprocité et seulement dans la mesure où les importations sont destinées aux nécessités des offices diplomatiques ou de leurs membres, on accorde des exemptions douanières, jusqu'à la concurrence des taxes indiquées ci-dessous, comme suit:

a) Pour les transports concernant les nécessités générales des ambassades	2.000.000 lei
b) Pour les transports concernant les nécessités générales des légations	1.500.000 lei
c) Pour les transports arrivés au nom et pour les nécessités des chefs d'ambassades	1.000.000 lei
d) Pour les transports arrivés au nom et pour les nécessités des chefs de légations	800.000 lei
e) Pour les transports arrivés au nom et pour les nécessités des membres du corps diplomatique (conseillers, attachés militaires, consuls généraux)	500.000 lei
f) Pour les transports arrivés au nom et pour les nécessités d'autres membres du corps diplomatique (secrétaires, consuls, attachés, vice-consuls)	300.000 lei

Les sommes susmentionnées sont comptées à partir du 1^{er} janvier de chaque année et elles ne peuvent être reportées sur l'année suivante. Le calcul des exemptions de taxes douanières pour chaque membre du corps diplomatique se fait dans les limites du plafond établi pour la catégorie respective, à partir du jour de son arrivée dans le pays et jusqu'à la fin de l'année.

Article 7. Les automobiles apportées par les chefs des missions et par les membres des offices diplomatiques et consulaires ou arrivées à leur adresse, dans les 6 mois qui suivent la date de leur installation dans leur poste, entrent en R. P. R. sans taxes douanières et sans être introduites dans le registre d'inscription, mais uniquement dans la limite de leur emploi personnel. L'exemption sera accordée par la direction des douanes, après communication écrite de la part de la Direction du protocole du Ministère des affaires étrangères de la R. P. R.

De même sont exempts de taxes douanières le mobilier et le matériel de bureau et d'entretien, nécessaires et destinés aux offices diplomatiques.

La valeur de leurs taxes douanières n'est pas incluse dans le calcul de la somme prévue à l'article 6.

Article 8. La Direction des douanes aura la situation à jour des importations faites dans les conditions prévues à l'article 6, ainsi que des taxes douanières dont ces importations ont été exemptées.

Article 9. La valeur des exemptions accordées est inscrite dans un carnet que le Ministère des affaires étrangères mettra, dans ce but, à la disposition des offices diplomatiques et de leurs membres, carnet que les titulaires présenteront à l'Office des douanes au moment où ils retireront l'importation.

Article 10. Ce carnet est strictement personnel et ne peut être utilisé que par le titulaire au nom duquel il a été délivré. Lors du départ définitif du titulaire du pays, le carnet doit être remis au Ministère des affaires étrangères.

C. Exemptions à la sortie du pays

Article 12. Sont exempts de taxes douanières, sur la base du permis d'exportation délivré par le Ministère du commerce extérieur :

a) Les bagages appartenant aux personnes prévues à l'article 1 ;

b) Les bagages du personnel administratif et de service des offices diplomatiques et consulaires, apportés dans le pays à l'occasion de l'installation ou acquis ultérieurement dans le pays, dans les limites des nécessités personnelles.

Article 13. Les bagages des personnes prévues à l'article précédent qui quitte définitivement le pays, et ne sont pas accompagnés par leur titulaire, sont également exempts de taxes douanières de sortie, dans un délai de 3 mois depuis le départ de leur propriétaire, en respectant les formes exigées à l'article 12.

Article 14. Ne peuvent être exportés :

Tissus et cuirs non confectionnés, antiquités de valeur, valeurs d'art plastique, instruments d'optiques, instruments médicaux, appareils de radio, appareils photographiques, appareils de laboratoire, objets de métaux précieux (bijouterie), pierres précieuses, tapis persans (même s'ils sont fabriqués dans le pays), ainsi que tout article interdit par les lois ou décisions spéciales.

L'exportation de devises est soumise au régime en vigueur en R. P. R.

Article 15. Au cas où les objets prévus à l'article précédent ont été introduits dans le pays par leurs possesseurs à l'occasion de l'installation ou par importations ultérieures, ils pourront être transportés à l'étranger, sur la base du permis d'exportation et à la condition qu'ils aient été déclarés, au moment de leur introduction dans le pays, à l'Office des douanes. Dans ce but les offices diplomatiques de la R. P. R. à l'étranger mettront à la disposition des intéressés les formulaires nécessaires.

Saint-Siège

LETTRE DU 9 NOVEMBRE 1955 REÇUE DE LA SECRÉTAIRERIE D'ÉTAT DU
SAINT-SIÈGE

En réponse à votre note . . . , concernant les lois et règlements en matière d'immunités diplomatiques et consulaires, j'ai l'honneur de vous informer de ce qui suit :

1) Le Saint-Siège ne possède pas de service consulaire ;

2) En raison des caractéristiques propres du Saint-Siège, les diplomates accrédités auprès de lui vivent normalement en territoire italien et leur statut est réglé par le traité signé entre le Saint-Siège et l'Italie le 11 février 1929 . . . »

TRAITÉ ENTRE LE SAINT-SIÈGE ET L'ITALIE, SIGNÉ LE 11 FÉVRIER 1929 ¹

Article 12. L'Italie reconnaît au Saint-Siège le droit de légation actif et passif, selon les règles générales du droit international.

Les envoyés des gouvernements étrangers près le Saint-Siège continuent à jouir dans le royaume de toutes les prérogatives et immunités qui concernent les agents diplomatiques selon le droit international, et leurs résidences pourront continuer à rester sur le territoire italien ; ils jouiront des immunités qui leur sont dues d'après le droit international, même si leurs États n'ont pas de rapports diplomatiques avec l'Italie.

Il reste entendu que l'Italie s'engage à laisser toujours libre, et dans tous les cas, la correspondance entre tous les États, y compris les belligérants, et le Saint-Siège, et vice-versa, ainsi que le libre accès des évêques de tout l'univers auprès du Siège apostolique.

Par un effet de la reconnaissance de souveraineté et sans préjudice de ce qui est fixé à l'article 19 ci-après, les agents diplomatiques du Saint-Siège et les courriers employés au nom du Souverain Pontife jouissent sur le territoire italien, même en temps de guerre, du même traitement que celui dû aux agents diplomatiques et aux courriers de cabinets des autres gouvernements étrangers, selon les règles du droit international.

Article 19. Les agents diplomatiques et les envoyés du Saint-Siège, les agents diplomatiques et les envoyés des gouvernements étrangers près le Saint-Siège et les dignitaires de l'Église venant de l'étranger pour aller à la Cité du Vatican et munis de passeports des États d'où ils viennent, et visés par les représentants pontificaux à l'étranger, pourront sans autre formalité accéder à cette Cité à travers le territoire italien. Il en sera de même pour les susdites personnes qui, munies du passeport pontifical en règle, se rendront de la Cité du Vatican à l'étranger.

Suède ²

a) PROVISIONS GÉNÉRALES RELATIVES AUX IMMUNITÉS DIPLOMATIQUES ET CONSULAIRES EN MATIÈRE CIVILE ET PÉNALE

La législation civile et pénale ne contient qu'un très petit nombre de dispositions concernant particulièrement les immunités diplomatiques et consulaires. La plupart des règles sont énoncées sous forme des dispositions

¹ *Droit international et Histoire diplomatique*, Documents choisis par C.-A. Colliard 3^e ed., 1955, t. I, p. 51.

² Le texte français des documents reproduits ci-après a été fourni par le Ministère des affaires étrangères de la Suède. Le texte du document a, qui a été fourni en anglais, a été traduit en français par le Secrétariat de l'Organisation des Nations Unies.

générales, ce qui signifie que les tribunaux doivent s'inspirer de la jurisprudence et de la doctrine.

Toutefois, les dispositions relatives aux impôts, aux droits de douane, etc., sont plus précises, ainsi que les données fournies ci-après permettent de le constater¹.

L'article 4 du chapitre premier du code pénal qui définit l'applicabilité du code aux ressortissants suédois et aux étrangers, pose la règle suivante :

« Seront considérés comme applicables aux missions des États étrangers, les principes généralement admis ou les stipulations des traités. »

Des lettres patentes royales en date du 10 février 1769, qui sont toujours en vigueur, prévoient que « les serviteurs des envoyés des gouvernements étrangers, qu'ils habitent avec lesdits envoyés ou ailleurs, jouissent d'une protection constante au titre des droits reconnus auxdits envoyés; toutefois, ne jouissent pas de cette protection, les personnes qui ne sont pas attachées au service des envoyés ».

La loi promulguée le 3 février 1911 accorde certaines dispenses aux consuls étrangers en ce qui concerne l'obligation de comparaître en justice comme témoin. Le texte de la disposition est le suivant :

« Sous réserve de réciprocité, le Roi en Conseil peut décréter qu'un consul qui exerce ses fonctions dans le pays au service d'un État étranger et qui est citoyen de cet État, ne soit pas tenu de comparaître en justice comme témoin, dans des affaires qui ne concernent pas des actions pénales ou des enquêtes criminelles.

« Lorsque le Roi en Conseil a pris un décret dans ce sens et qu'un consul cité comme témoin a déclaré ne pas pouvoir comparaître devant le Tribunal, celui-ci peut décider, soit d'entendre la déposition du consul à son bureau officiel ou à son domicile privé, soit, si les parties en cause en décident ainsi, de l'inviter à soumettre au Tribunal une déposition écrite. »

b) IMMUNITÉ FISCALE

I. IMPÔTS DIRECTS

1. *Impôt communal sur le revenu; loi sur l'impôt communal, 28 septembre 1928*

53 § 1^{er} alinéa. Sont soumises à l'obligation de payer l'impôt sur le revenu à moins qu'il n'en soit disposé autrement dans cette loi ou dans des prescriptions spéciales, édictées en vertu de convention ou de décision qu'indiquent le 72 § (Convention sur les doubles impositions) et le 73 § (voir ci-dessous).

a) Les personnes physiques

En ce qui concerne la période pendant laquelle elles n'ont pas habité ici dans le royaume;

Pour le revenu d'un immeuble situé dans le royaume ou pour le revenu d'un commerce qui a été exploité dans le royaume;

Pour le revenu d'emploi dont le paiement a été fait ici (en Suède) et qui provient d'une activité exercée dans le royaume;

¹ Voir *infra*, b.

Pour le gain réalisé par la vente non professionnelle de biens immobiliers ou de commerce exploité dans le royaume ou d'accessoires d'un immeuble ou d'un commerce de ce genre ainsi que . . .

70 § 1^{er} alinéa. La personne qui a appartenu à la mission ou au consulat rétribué d'une puissance étrangère en Suède ou a fait partie des gens de service de cette mission ou de ce consulat et qui n'a pas été ressortissante suédoise est réputée, au point de vue fiscal, n'avoir pas habité dans le royaume. Pour les revenus qui, d'après les dispositions de cette loi, sont frappés de l'impôt dans la commune du domicile, l'impôt de ladite personne sera acquitté dans la commune du royaume où elle a eu la première fois sa demeure et son domicile réels pendant l'année qui a précédé immédiatement l'année fiscale, ou, si ce cas ne s'est pas présenté, là où elle a demeuré d'une façon permanente.

Ce qui vient d'être dit s'applique également à la femme de cette personne, à ses enfants de moins de 18 ans et à ses domestiques privés s'ils ont habité chez elle et n'ont pas été ressortissants suédois.

2^{me} alinéa. Le ressortissant suédois qui a appartenu à la mission ou au consulat rétribué d'une puissance étrangère en Suède ou a fait partie des gens de service de cette mission ou de ce consulat est exempt de l'obligation de payer l'impôt pour le revenu de son emploi au service de cette puissance étrangère.

3^{me} alinéa. Un consul étranger non rétribué, qu'il ait été ressortissant suédois ou étranger, n'est pas soumis à l'impôt pour les avantages qu'il a retirés de son emploi au service de la puissance étrangère.

73 §. Sous réserve de réciprocité, le gouvernement du Roi peut accorder une exemption d'impôt pour la somme déposée en garantie en vue de l'immeuble appartenant à la puissance étrangère, affecté à sa mission ou à son consulat en Suède ainsi que pour le revenu qui en est retiré.

2. *Impôts d'État sur le revenu : règlement royal du 26 juillet 1947 concernant l'impôt d'État sur le revenu*

6 § 1^{er} alinéa. Sont soumises à l'obligation de payer l'impôt sur le revenu à moins qu'il n'en soit disposé autrement dans ce règlement ou dans des prescriptions spéciales édictées en vertu de convention ou de décision qu'indiquent le 20 § (Convention sur les doubles impositions) et le 21 § (voir ci-dessous).

a) Les personnes physiques

En ce qui concerne la période pendant laquelle elles n'ont pas habité ici dans le royaume;

Pour le revenu d'un immeuble situé dans le royaume;

Pour le revenu d'un commerce qui a été exploité dans le royaume;

Pour le revenu d'emploi dont le paiement a été fait ici (en Suède) et qui provient d'une activité exercée dans le royaume;

Pour le gain réalisé par la vente non professionnelle de biens immobiliers ou de commerce exploité dans le royaume ou d'accessoires d'un immeuble ou d'un commerce de ce genre;

Pour l'impôt définitif, la contribution foncière ou l'impôt afférent à la personne qui a été restitué, réduit ou supprimé dans la mesure où la réduction qui découle de ce fait a été accordée au contribuable lors de l'imposition de l'année précédente ainsi que

Pour le revenu provenant du dividende de parts bénéficiaires dans les associations suédoises à but de lucre.

18 § 1^{er} alinéa. La personne qui a appartenu à la mission ou au consulat rétribué d'une puissance étrangère en Suède ou a fait partie des gens de service de cette mission ou de ce consulat et qui n'a pas été ressortissante suédoise est réputée, au point de vue fiscal, n'avoir pas habité dans le royaume. Cette personne bénéficie, en dehors de la réduction de l'obligation d'impôt qui ressort de ce qui vient d'être dit d'une exemption d'impôt pour le dividende de parts bénéficiaires dans les associations suédoises à but de lucre. L'impôt sera payé par la personne dont il s'agit ici dans la commune du royaume où elle a eu la première fois sa demeure et son domicile réels pendant l'année fiscale ou, si ce cas ne s'est pas présenté, là où elle a demeuré d'une façon permanente.

Ce qui vient d'être dit est appliqué également à la femme de cette personne, à ses enfants de moins de 18 ans et à ses domestiques privés s'ils ont habité chez elle et n'ont pas été ressortissants suédois.

2^{me} alinéa. Le ressortissant suédois qui appartient à la mission ou au consulat rétribué d'une mission étrangère en Suède ou a fait partie des gens de service de cette mission ou de ce consulat est exempt de l'obligation de payer l'impôt pour le revenu de son emploi au service de la puissance étrangère.

3^{me} alinéa. Un consul étranger non rétribué, qu'il ait été ressortissant suédois ou étranger, n'est pas soumis à l'impôt pour les avantages qu'il a retiré de son emploi au service de la puissance étrangère.

21 §. Sous réserve de réciprocité, le gouvernement du Roi peut accorder une exemption d'impôt pour le revenu de l'immeuble appartenant à la puissance étrangère, affecté à sa mission ou à son consulat en Suède.

*Impôt sur les coupons: règlement royal concernant l'impôt sur les coupons du
12 février 1943*

1 §. . . .

L'obligation de payer l'impôt sur les coupons n'existe pas pour les personnes qui sont visées au 17 § ou 18 § 1^{er} alinéa du règlement concernant l'impôt d'État sur le revenu.

3. Impôt d'État sur la fortune: règlement royal du 26 juillet 1947 concernant l'impôt d'État sur la fortune

6 § 1^{er} alinéa. Sont soumises à l'obligation d'acquitter un impôt sur la fortune, à moins qu'il n'en soit disposé autrement dans des prescriptions spéciales, édictées en vertu de convention ou de décision qu'indiquent le 20 § (Convention des doubles impositions) et le 21 § (voir ci-dessous).

c) Les personnes physiques qui n'habitaient pas le royaume à la fin de l'année fiscale, les successions indivises de personnes qui n'habitaient pas le royaume au moment de leur décès ainsi que les sociétés étrangères:

Pour la fortune qui était placée dans le royaume à la fin de l'année fiscale dans la mesure où cette fortune n'était pas constituée par des actions suédoises, des actions de ce genre placées dans le commerce en Suède étant toutefois soumises à l'impôt;

Pour les contribuables dont il est question au 18 §, l'obligation de payer des impôts sur la fortune est établie d'après les dispositions formulées dans ce même paragraphe.

18 §. La personne qui a appartenu à la mission ou au consulat rétribué d'une puissance étrangère ou a fait partie des gens de service de cette mission ou de ce consulat et qui n'a pas été ressortissante suédoise est réputée, au point de vue fiscal, n'avoir pas habité dans le royaume. Une telle personne bénéficie, en dehors de la réduction de l'obligation d'impôt qui ressort de ce qui vient d'être dit, d'une exemption d'impôt pour la fortune, constituée par des parts bénéficiaires dans une association suédoise à but lucratif. L'impôt sera payé par la personne dont il s'agit ici dans la commune du royaume où elle a eu la première fois sa demeure et son domicile réels pendant l'année fiscale ou, si ce cas ne s'est pas présenté, là où elle a demeuré d'une façon permanente.

Ce qui vient d'être dit s'applique également à la femme de cette personne, à ses enfants de moins de 18 ans et à ses domestiques privés s'ils ont habité chez elle et n'ont pas été ressortissants suédois.

21 §. Sous réserve de réciprocité, le gouvernement du Roi peut accorder une exemption d'impôt pour la fortune constituée par l'immeuble appartenant à un État étranger, affecté à sa mission ou à son consulat en Suède.

4. *Impôt sur les successions et sur les donations: règlement royal concernant l'impôt sur les successions et l'impôt sur les donations du 6 juin 1941*

1 §. L'impôt d'État est, d'après ce règlement, perçu sur les propriétés qui sont acquises par héritage ou testament (impôt sur les successions) ou par don (impôt sur les donations).

4 § 1^{er} alinéa. L'impôt sur les successions est perçu :

1. Pour les biens dans le royaume ou hors du royaume lesquels ont été laissés par un ressortissant suédois ou par un étranger qui habitait dans le royaume au moment de sa mort;

2. Pour les catégories suivantes de biens qui ont été laissés par un étranger autre que celui qui est indiqué au (1):

a) Immeuble situé dans le royaume ainsi que droit d'usufruit et droit de perception de l'intérêt, de la redevance et autre profit d'une propriété de ce genre;

b) Bien meuble situé dans le royaume non mentionné sous le (a), lequel peut être rattaché au capital d'établissement ou d'exploitation d'une entreprise de gain exploitée ici par le défunt, par exemple: objets de propriété vivants et morts, matières premières, produits, objets de consommation et autres, mines, droit à brevet d'invention et droit d'impression ainsi que capital, dont on puisse disposer en argent comptant, qui soit placé dans des obligations, déposé en banque ou qui ait été prêté ou encore qui soit constitué par des créances d'autre nature ou par des actions ou parts bénéficiaires d'une association à but de lucre, société ou compagnie d'armement;

c) Usufruit d'une propriété dont il est question sous le (b) ainsi que droit à la redevance et à la rente périodique pour une propriété de ce genre;

d) Actions suédoises et parts bénéficiaires dans les associations suédoises à but de lucre, sociétés et compagnies d'armement dans la mesure où ces revenus ne peuvent être rattachés aux biens désignés sous le (b).

2^{me} alinéa. Comme ayant habité dans le royaume au moment de sa mort est considérée la personne qui y avait alors sa demeure et son domicile réels.

Ce qui est prescrit dans ce paragraphe pour celui qui habitait dans le royaume au moment de sa mort est aussi applicable à celui qui séjournait au moment de sa mort d'une façon permanente dans le royaume sans y avoir fixé sa demeure.

3^{me} alinéa. L'étranger qui au moment de sa mort appartenait à la mission ou au consulat rétribué d'une puissance étrangère ou faisait partie des gens de service de cette mission ou de ce consulat n'est pas réputé avoir habité le royaume; il en est de même de la femme de cette personne, de ses enfants de moins de 18 ans et de ses domestiques privés s'ils habitaient au moment de leur mort chez cette personne et étaient étrangers.

Pour les actions et les parts bénéficiaires dans les associations à but de lucre de la nature de ceux qui sont visées à l'alinéa 1, 2 (*d*), il n'y a pas obligation d'impôt sur les successions lorsque ces valeurs sont laissées par un étranger dont il s'agit au passage précédent.

35 §. Il y a obligation de payer l'impôt sur les donations pour :

a) Les ressortissants suédois, les étrangers demeurant dans le royaume ainsi que les personnes morales suédoises en ce qui concerne le don de biens dans le royaume ou en dehors du royaume;

b) L'étranger autre que celui qui est mentionné sous le (a) ainsi que les personnes morales qui ne se rattachent pas au royaume en ce qui concerne le don de biens comme ceux désignés au 4 § 1^{er} alinéa (2).

43 §. Pour l'imposition des dons sera appliqué *mutatis mutandis*, outre les dispositions spécialement mentionnées plus haut, dans ce qui a été établi en plus concernant l'impôt sur les successions dans le 4 §, alinéas 2 et 3 ...

5. *Impôts sur les héritages: règlement royal sur l'impôt sur les héritages du 26 juillet 1947*

1 §. Aux termes des dispositions de ce règlement, il devra être payé à l'État un impôt sur les héritages pour les biens qui sont soumis à l'impôt sur les successions selon le 4 § règlement du 6 juin 1941 concernant l'impôt sur les successions et l'impôt sur les donations.

II. IMPÔTS INDIRECTS

1. a) *Impôt sur les automobiles: règlement royal concernant l'impôt sur les automobiles du 2 juin 1922*

2 §. Sont exempts de cet impôt:

a) L'automobile qui appartient à un membre de la famille royale et, à titre de réciprocité, suivant décision prise par le gouvernement du Roi à cet égard, l'automobile d'une personne appartenant à la mission ou au consulat d'une puissance étrangère en Suède, laquelle n'est pas ressortissante suédoise.

b) *Règlement royal sur les droits à payer pour investissement dans véhicules à moteur du 11 février 1955*

Extrait du 3 §. En outre seront exceptés de l'application de ce règlement les véhicules qui sont exemptés de l'obligation de payer l'impôt selon le 2 § règlement du 2 juin 1922 sur l'impôt sur les automobiles ...

2. *Droit de timbre: règlement royal sur le droit de timbre du 19 novembre 1914*

8 §. ...

Achat de biens immobiliers

Sous réserve de réciprocité, le gouvernement du Roi pourra dispenser du droit de timbre les titres de ventes sur la base desquels est demandée l'enregistrement d'une propriété appartenant à une puissance étrangère, affectée à la mission ou au consulat de cette puissance étrangère en Suède.

3. *Droits de licence pour la radio: ordonnance royale concernant le droit d'avoir un poste récepteur de radio du 17 juin 1943*

14 §. Ce qui est établi dans cette ordonnance ne vise pas les postes récepteurs de radio appartenant à l'administration de l'État ou — après examen du ministre des affaires étrangères — les postes récepteurs de radio appartenant aux fonctionnaires des missions et consulats rétribués étrangers ni non plus les postes récepteurs sur les navires ou les avions étrangers ou encore les postes récepteurs de radio qui sont introduits dans le royaume pour emploi temporaire et qui jouissent, aux termes des dispositions en vigueur, de l'exemption douanière.

Le Ministère des affaires étrangères a, conformément à ce qui vient d'être dit, édicté en 1942 des dispositions pour le paiement des droits de licence de radio lorsqu'il s'agit de missions et de consulats rétribués étrangers se trouvant en Suède, comme suit:

a) Les fonctionnaires diplomatiques ou consulaires rétribués sont dispensés du paiement de ces droits;

b) Le personnel de chancellerie peut, à titre de réciprocité relativement à l'exemption des fonctionnaires suédois correspondants à l'étranger, être libéré de ces droits.

En ce qui concerne un grand nombre d'autres impôts et droits indirects, voir sous la rubrique III:3.

III. DOUANE

1. *Dispense de douane: ordonnance douanière du 7 octobre 1927*

147 §. Tout envoi arrivant dans une zone douanière qui est adressé au ministère des affaires étrangères ou à un chef de mission d'un pays étranger en Suède et qui est en outre muni du sceau de l'autorité d'État ou encore dont l'emballage indique clairement que cet envoi est officiel et ne contient pas d'objets devant acquitter des droits de douane peut être retiré sans

inspection de la douane du bureau de la douane ou, s'il s'agit d'envoi postal, du bureau de poste.

2. *Exemption des droits de douane: a) ordonnance des tarifs douaniers du 4 octobre 1929*

5 §. Bénéficient de l'exemption des droits de douane:

. . .

b) Les marchandises qui sont importées par un chef de mission étrangère accrédité dans le pays ou par une autre personne qui appartient à la mission d'un pays étranger ici ou par un consul rétribué (consul général, consul ou vice-consul) qui est nommé par une puissance étrangère dans le royaume et n'exerce pas dans le pays une activité privée de gain, tous ces avantages donnés dans la mesure que prescrit le gouvernement du Roi, en tenant compte, le cas échéant, des avantages correspondants que la puissance étrangère accorde éventuellement à la Suède, l'autorisation indiquée ci-dessus ne devant toutefois être réservée qu'aux personnes qui ne sont pas ressortissantes suédoises.

c) Les objets affectés aux besoins du service, lesquels arrivent aussi au consulat d'une puissance étrangère en Suède, dans la mesure que prescrit le gouvernement du Roi, les avantages correspondants qu'accorde éventuellement la puissance étrangère à la Suède devant, le cas échéant, être pris en considération; (d'après la teneur du 24 avril 1953).

b) *Ordonnance royale avec dispositions en vue de l'application du règlement des tarifs douaniers du 30 octobre 1953*

Le gouvernement du Roi a, en vertu de dispositions du règlement des tarifs douaniers du 4 octobre 1929, jugé bon de prescrire ce qui suit.

. . .

23 §. La franchise douanière prévue au 5 § (b) du règlement des tarifs douaniers sera accordée dans la mesure fixée ci-après.

Les fonctionnaires diplomatiques et consuls rétribués bénéficieront de la franchise douanière pour les articles qu'ils introduisent dans le pays en vue du service ou en vue de leur propre usage ou de celui de leur famille.

Le personnel de chancellerie appartenant à la mission diplomatique d'une puissance étrangère bénéficiera de la franchise douanière pour les articles d'usage personnel qu'il introduit en Suède lorsqu'il vient s'installer dans le royaume.

La franchise douanière prévue au 5 § (c) du règlement des tarifs douaniers pourra être accordée pour écussons, sceaux, drapeaux, emblèmes, effets de bureau et autres articles de même espèce que les gouvernements étrangers envoient à leurs consulats en Suède.

24 §. Pour obtenir la franchise douanière prévue au 23 §, le destinataire des articles devra remettre au ministre des affaires étrangères une demande écrite en vue d'obtenir la délivrance de ces articles sans acquittement de droits de douane. Ladite demande devra être adressée au bureau de district douanier du district de la douane où entrent les articles et devra être accompagnée d'une liste en trois exemplaires des articles, de leur quantité, de leur valeur et du pays d'achat. Si le destinataire est une personne, appartenant à la mission diplomatique, autre que le chef de mission, la demande devra être pourvue d'une annotation du chef de mission indiquant que la

demande lui a été présentée. Si le destinataire est un consul, il faut que la demande contienne une déclaration de sa part attestant qu'il n'exerce pas dans le royaume une activité privée à but de lucre.

Le ministre des affaires étrangères devra joindre à la demande des renseignements qui permettent d'établir si le destinataire appartient à une mission étrangère dans le pays où s'il a été nommé par une puissance étrangère consul rétribué dans le pays et qui indiquent aussi que le destinataire n'est pas ressortissant suédois; le ministre devra ensuite transmettre au bureau de district douanier compétent la demande ainsi que deux exemplaires de la spécification annexée à la demande.

La Direction générale des douanes devra remettre tous les trois mois au ministère des finances des listes sur lesquelles figurent les articles délivrés par la douane à la suite de demandes de ce genre.

Dans le cas où, la franchise douanière ayant été accordée selon le 23 § à l'entrée de véhicule automobile ou d'avion, ce moyen de communication est ensuite vendu avant que deux ans se soient écoulés depuis son entrée dans le pays, les droits de douane pour cet article, calculés d'après la valeur du moyen de transport à la date de la vente, devront être acquittés par le vendeur sur la base des tarifs et des lois et règlements en vigueur lors de la vente. Toutefois les droits de douane ne seront pas perçus lorsque la vente est faite soit à une personne qui, aux termes du 23 §, a le droit de bénéficier de la franchise douanière pour ce moyen de transport soit pour la raison que le propriétaire du moyen de transport est décédé ou qu'il quitte la Suède pour un autre poste, après avoir eu en sa possession ce moyen de transport pendant six mois au moins.

Si une personne qui a obtenu la franchise douanière selon le 23 § à l'entrée de véhicule automobile ou d'avion, désire vendre ce moyen de transport avant que deux ans se soient écoulés depuis l'entrée de cet article dans le pays, elle devra faire par écrit une déclaration de vente au ministère des affaires étrangères qui, au cas où des droits de douane sembleraient devoir être acquittés pour ce moyen de transport, est tenu de transmettre cette déclaration au bureau de district douanier du district de la douane où se trouve le moyen de transport.

En ce qui concerne le droit qui revient à une personne demeurant dans le royaume d'effectuer un payement pour l'acquisition d'un moyen de transport que vise ce paragraphe, des dispositions spéciales sont applicables.

3. *Exemption de certains impôts, etc.*

D'après un certain nombre d'ordonnances, sont perçus à l'entrée un impôt ou des droits d'entrée;

Dans les ordonnances énumérées ci-après il est prévu que les personnes qui bénéficient de la franchise douanière sont aussi exemptes d'impôts ou de droits d'importation à l'entrée en Suède des catégories de marchandises visées dans les ordonnances suivantes:

Règlement royal du 3 mai 1929 concernant l'impôt spécial sur l'essence et l'alcool dénaturé;

Règlement royal du 20 décembre 1939 concernant l'impôt sur le café;

Règlement royal du 25 mai 1941 concernant l'impôt sur certaines marchandises (chocolat, articles de toilette, etc.);

Règlement royal du 30 juin 1943 concernant l'impôt sur certaines fourrures;

Règlement royal du 5 mars 1948 concernant l'impôt sur la vente de certains objets de luxe;

Ordonnance royale du 13 juin 1919 concernant le droit de timbre sur les cartes à jouer;

Règlement royal du 1^{er} juillet 1918 concernant certains produits alcoolisés, etc.;

Règlement royal du 26 mai 1954 sur la vente des spiritueux;

Règlement royal du 1^{er} juillet 1918 concernant le commerce de l'alcool exempt d'impôts;

Loi du 11 juin 1943 concernant le monopole d'État sur la fabrication et l'importation du tabac.

Réglementation des devises: règlement sur les devises du 25 février 1940

15 §. Ce règlement ne s'applique pas aux ressortissants étrangers qui appartiennent à la mission ou au consulat rétribué d'une puissance étrangère ou font partie des gens de service de cette mission étrangère ou de ce consulat et il en est de même des membres de familles desdites personnes ou de leurs serviteurs privés s'ils habitent chez ces personnes et sont ressortissants étrangers.

4. *Dispense de la visite de la douane*

a) Bagage (extrait de la lettre royale du 15 février 1901).

A l'examen de cette question, Nous avons trouvé bon de prescrire que tout voyageur qui établit devant une autorité douanière compétente suédoise qu'il est membre de la mission d'une puissance étrangère, employé à titre permanent ou à titre provisoire bénéficiera d'une dispense de visite douanière des bagages qu'il a emportés en voyage et que cette dispense peut dans les conditions indiquées plus haut être accordée alors même que ladite personne n'appartient pas à une mission des pays unis mais ne fait que traverser la Suède.

b) Envois par courrier (extrait de la circulaire de la Direction générale des douanes concernant l'inspection des envois qu'apporte un courrier étranger; le 24 mai 1918).

Suivant communications faites postérieurement par le même ministère (Ministère des finances) au lieu des dispositions susmentionnées sera maintenant appliquée la disposition portant que si le courrier d'une mission étrangère sous la protection du sceau de l'État et dans la pensée d'éviter la visite de la douane, apporte des envois qui en raison de leur nombre et de leur poids ne semblent pouvoir contenir uniquement ou principalement des documents officiels et, de toute façon, si l'envoi pèse plus de 100 kilogrammes, l'autorité compétente doit, sans effectuer l'inspection, garder l'envoi et transmettre un rapport télégraphique détaillé au ministère des finances; des mesures de ce genre ne devant toutefois pas être prises à l'égard de tels envois, importés dans le royaume qui sont manifestement destinés à la Suède.

c) DISPOSITIONS CONCERNANT LES PASSEPORTS, VISAS, ETC.

1. LOI SUR LES ÉTRANGERS DU 30 AVRIL 1954

69 §. Les dispositions de cette loi ne sont que dans la mesure où le gouvernement du Roi le prescrit applicables aux fonctionnaires diplomatiques et consulaires rétribués, employés par les puissances étrangères en Suède ainsi qu'à leurs familles et à leurs domestiques.

Cette loi ne vise pas les courriers des puissances étrangères mais à l'égard de ceux-ci sont appliquées les dispositions édictées par le gouvernement du Roi.

2. ORDONNANCE ROYALE SUR LES ÉTRANGERS DU 4 JUIN 1954

74 §. Les fonctionnaires diplomatiques et consulaires rétribués des puissances étrangères en Suède ainsi que leurs familles et leurs domestiques doivent être munis de passeports ou autre pièce de légitimation qui est valable à titre de passeport. Dans les cas où le ministre des affaires étrangères le décide, les pièces de légitimation devront être munies d'un visa. Des dispositions plus détaillées sur ce visa sont édictées par le ministre des affaires étrangères.

75 §. Le courrier de puissance étrangère devra, en arrivant dans le royaume, être muni non seulement d'un passeport avec visa lorsque cette mesure est prescrite pour les ressortissants de l'État auquel il appartient mais encore d'un document spécial justifiant sa qualité de courrier et une liste des bagages de courrier dressée par l'autorité compétente ainsi qu'indication du poids total de ces bagages calculé en kilogrammes. En ce qui concerne le courrier lui-même, application sera faite de ce qui est établi dans cette ordonnance relativement au contrôle à l'entrée et à la sortie et à l'autorisation de séjour et de travail.

Suisse ¹

a) RÈGLES APPLIQUÉES PAR LE DÉPARTEMENT POLITIQUE FÉDÉRAL EN MATIÈRE D'IMMUNITÉS ET PRIVILÈGES DIPLOMATIQUES ET CONSULAIRES

A. PRIVILÈGES ET IMMUNITÉS DIPLOMATIQUES

I. Définition

La fiction de « l'exterritorialité » telle qu'elle existait au XVIII^e et même au XIX^e siècle a été de plus en plus battue en brèche depuis la guerre de 1914, elle est actuellement entièrement abandonnée. Les lieux occupés par les missions diplomatiques ne sont plus considérés comme une portion de territoire étranger enclavé dans l'État de résidence ni les membres du corps diplomatique comme soustraits aux lois du pays où ils exercent leurs fonctions.

Le terme même d'exterritorialité a été abandonné dans le nouveau règlement de l'Institut de droit international sur les immunités diplomatiques, adopté à New-York le 18 octobre 1929, ainsi que dans la Convention de La Havane du 20 février 1928. Cette métaphore est remplacée aujourd'hui par les termes précis de « privilèges et immunités diplomatiques ». Il s'agit d'un ensemble de prérogatives et d'avantages par le jeu desquels ceux qui en bénéficient sont soustraits, non pas aux lois de l'État de résidence, mais à leurs sanctions judiciaires, et, d'une manière générale, à toute mesure de coercition.

¹ Le texte des documents reproduits dans la section relative à la Suisse a été fourni par l'observateur permanent de la Suisse auprès de l'Organisation des Nations Unies.

II. Catégories des bénéficiaires ¹

Les bénéficiaires des prérogatives énumérées ci-dessous comprennent principalement les membres du personnel officiel des missions diplomatiques accréditées à Berne. Des privilèges analogues sont reconnus aux délégués des États membres d'institutions internationales telles que l'O. N. U., ainsi qu'aux chefs d'État et aux membres de familles régnantes se trouvant en Suisse officiellement, voire même, suivant les cas, *incognito*. Ces « règles » cependant ne concernent que les membres du personnel des missions diplomatiques à Berne.

La pratique du Département politique est, en l'absence d'une législation d'ensemble, fondée sur les principes généraux du droit des gens, les usages internationaux généralement admis, les conventions ou traités, la doctrine, ainsi que, pour certaines matières, sur des textes de lois fédérales et cantonales et la jurisprudence des tribunaux.

1. *Chefs de missions diplomatiques*, soit: le Nonce apostolique et l'Ambassadeur de France, les envoyés extraordinaires et ministres plénipotentiaires, les ministres résidents, les chargés d'affaires. Depuis 1940, il n'y a plus à Berne d'agents de la 3^{ème} classe, c'est-à-dire de ministres résidents.

Partagent les prérogatives des chefs de missions: les membres de leur famille vivant sous le même toit (femme, enfants n'exerçant pas d'activité lucrative, parents directs et beaux-parents), les secrétaires particuliers (à titre exceptionnel, la secrétaire particulière de la femme d'un chef de mission s'est également vu reconnaître ces privilèges).

2. *Le personnel dit de 1^{ère} catégorie ou personnel diplomatique*, à savoir les conseillers, secrétaires et attachés de nonciature, d'ambassade ou de légation; les attachés spéciaux tels qu'attachés ou conseillers commerciaux, financiers, militaires, agronomes, culturels et de presse. Les femmes et les enfants de ces personnes bénéficient des mêmes prérogatives pour autant qu'ils vivent sous le même toit et n'exercent pas d'activité lucrative. Les privilèges d'une femme diplomate ne s'étendent pas à son conjoint, mais ce dernier peut figurer sur la liste diplomatique.

3. *Les chefs de chancellerie* sont mis au bénéfice des immunités et privilèges accordés au personnel de 1^{ère} catégorie, sauf en ce qui concerne les facilités douanières pour lesquelles ils sont assimilés à la 2^{ème} catégorie (voir plus loin).

4. *Le personnel domestique du chef de mission*. Il s'agit des maîtres d'hôtel, cuisiniers, chauffeurs, valets ou femmes de chambre, jardiniers, etc., à l'exclusion du personnel domestique engagé par la légation (huissiers, concierges, chasseurs, chauffeurs, etc.). Les prérogatives des domestiques du chef de mission sont individuelles et ne s'étendent pas à leurs proches; elles sont identiques à celles du personnel de 1^{ère} catégorie, à l'exception de la franchise douanière.

Les domestiques des diplomates non chefs de mission n'ont aucune prérogative et le fait que leurs maîtres sont chargés d'affaires *ad interim* pour une période relativement brève ne modifie pas leur situation. Des exceptions peuvent être envisagées lorsqu'il s'agit de chargés d'affaires *ad interim* dont la mission se prolonge parce que le chef de mission en pied est presque continuellement absent ou non encore nommé.

¹ Cf. circulaire du Département politique aux missions diplomatiques du 14 février 1921 et la lettre circulaire du Département fédéral de justice et police aux Directions de police des cantons du 11 août 1921.

5. *Le personnel dit de 2^{ème} catégorie*, à savoir tous les membres du personnel officiel de la mission diplomatique ne figurant pas sur la liste du corps diplomatique, à l'exception des chefs de chancellerie, mais engagés et payés par l'État pour le service exclusif de la mission. Il s'agit des vice-chancelliers, archivistes, interprètes, secrétaires et commis de chancellerie, courriers, sténodactylographes, chiffreurs, assistants de l'Attaché militaire, huissiers, chauffeurs, jardiniers, etc.

Ces personnes ne jouissent pas de l'ensemble des privilèges et immunités diplomatiques, mais seulement pour ce qui relève du fisc et de la police des étrangers, de certaines facilités fixées par l'A. C. F. du 22 février 1918 et par l'arrêté du Conseil exécutif du canton de Berne du 21 décembre 1920¹.

Bien que la circulaire précitée du Département fédéral de justice et police ne les mentionne pas, les femmes et les enfants des membres du personnel de 2^{ème} catégorie vivant sous le même toit que le bénéficiaire partagent les prérogatives de celui-ci. Cette facilité ne s'étend pas, toutefois, aux parents, neveux et nièces.

Remarques

a) *Double nationalité*. Vu les termes de l'article 4 de la Constitution fédérale et conformément à la pratique admise dans la plupart des États, les doubles nationaux possédant la nationalité suisse ne peuvent en principe bénéficier d'aucun privilège diplomatique, à moins qu'ils renoncent expressément à cette dernière. Quand il s'agit d'un chef de mission, l'obstacle découlant de l'égalité des Suisses devant la loi se complique du point de savoir si la nationalité suisse n'est pas incompatible avec la représentation à Berne d'un pays étranger. Il convient donc de considérer chaque cas suivant les circonstances.

b) *Lieu de résidence*. Pour bénéficier des privilèges et immunités diplomatiques, les intéressés doivent, selon la pratique constante du Conseil fédéral, résider dans la ville fédérale ou ses environs. Des exceptions peuvent être consenties en faveur des conjoints ou enfants.

Les autorités suisses admettent que les femmes et les enfants de diplomates obligés, soit pour leur santé, soit pour leurs études, de résider hors de Berne, partagent les privilèges du chef de famille. De plus, le Département a toujours estimé que l'âge des enfants n'était pas déterminant et que leur situation juridique dépendait avant tout de leur degré d'indépendance à l'égard de leurs parents.

Les privilèges continuent à être accordés pendant un délai raisonnable, mais ne pouvant dépasser six mois, aux diplomates transférés ou ayant fait valoir leurs droits à la retraite qui ne quitteraient pas immédiatement la Suisse. Cette facilité est étendue à l'épouse et aux enfants. Il en est de même à l'égard de la veuve et des parents directs d'un diplomate qui décéderait en cours de mission à Berne.

III. *Fondement des prérogatives diplomatiques*

Les privilèges et immunités reposent sur une double base.

1. Le respect de l'État que représente l'agent diplomatique. En effet, ce dernier, quel que soit son rang, ne bénéficie pas des privilèges et immunités à titre personnel, mais en tant que représentant de son pays et dans l'intérêt de ce dernier.

¹ Cf. Salis/Burckhardt, part. I, II ch. 2, n° 84, p. 195 (211).

2. La nécessité pour l'agent diplomatique de pouvoir exercer sa mission librement.

Il découle de ce qui précède que le bénéficiaire des privilèges et immunités diplomatiques ne peut de lui-même y renoncer puisqu'il n'en jouit pas dans son propre intérêt. Les chefs de mission ne peuvent y renoncer qu'avec l'autorisation de leur gouvernement et les autres membres de la mission qu'avec celle de leur chef.

IV. *L'inviolabilité diplomatique*

C'est sur les deux principes rappelés ci-dessus que repose celui de l'inviolabilité, prérogative garantie par le droit des gens et les usages internationaux.

1. *L'inviolabilité personnelle.* L'État de résidence doit s'abstenir à l'égard des agents diplomatiques accrédités auprès de lui de tout acte susceptible de porter atteinte à leur intégrité personnelle, à leur dignité et à leur indépendance dans l'exercice de leurs fonctions. Le Gouvernement doit assurer le respect de cette inviolabilité tant par les simples particuliers que par les autorités qui, en cas de contestation avec un membre du corps diplomatique à même de prouver sa qualité, doivent se borner à prendre note du litige et le soumettre au Département politique qui pourra s'occuper de la question par voie diplomatique ¹.

2. *L'inviolabilité des locaux.* Elle est assurée à tous les membres du corps diplomatique pour leur logement personnel. Elle est garantie en outre aux locaux officiels abritant les services de la chancellerie (les *archives* sont, bien entendu, inviolables), et les fonctionnaires de l'État de résidence ne peuvent y pénétrer qu'avec l'autorisation du chef de mission ². Les jardins des missions diplomatiques sont inclus dans l'inviolabilité de la résidence.

L'inviolabilité des locaux implique que les communications des autorités ayant à intervenir ne peuvent être remises directement par les agents compétents aux agents diplomatiques, même pas à un membre du personnel ne jouissant pas de l'immunité de juridiction; le commandement de payer, par exemple, sera alors transmis par voie diplomatique ³.

La loi cantonale bernoise du 27 juillet 1866 n'autorise l'achat, sur territoire bernois, d'un immeuble par un État qu'à titre exceptionnel et à condition que:

a) L'immeuble reste soumis dans tous les cas aux prescriptions du droit privé et public à la seule exception des charges militaires (logement de troupes);

b) L'immeuble reste soumis au principe du *forum rei sitae*.

Le respect de ces conditions ne saurait avoir pour effet d'annuler les conséquences du principe de l'inviolabilité.

L'inviolabilité des voitures découle logiquement de celle du domicile. Elle n'implique pas que les voitures des membres du corps diplomatique ne sont pas soumises aux lois et règlements en vigueur dans l'État de résidence, mais signifie uniquement qu'en cas d'infraction à ceux-ci, sauf dans des cas particuliers prévus par les dispositions réglant la circulation routière en Suisse, aucune mesure de coercition ne pourra être exercée contre le conduc-

¹ Règlement de Cambridge de l'Institut de droit international 1895, art. 3, annuaire de l'Institut, vol. 14, p. 240; cf. aussi CPS, art. 296 et 297.

² Salis/Burckhardt n° 86, II, p. 198 (214).

³ Salis/Burckhardt n° 86, III, p. 198 (215).

teur et que seules des démarches par voie diplomatique pourront être entreprises. Il faut distinguer aussi entre les cas où la voiture est conduite par son propriétaire ou par une tierce personne. Si un agent demande au conducteur d'une voiture diplomatique de faire connaître son identité, cette exigence ne saurait être considérée comme une violation du droit des gens.

3. Le libre exercice de sa mission implique pour l'agent qu'il puisse correspondre sans entrave avec son gouvernement. Il a donc le droit d'utiliser des *chiffres* ou des *codes* pour échanger avec lui des télégrammes auxquels il convient d'accorder la priorité reconnue aux télégrammes d'État ¹.

La *valise diplomatique* contenant le courrier diplomatique (correspondance officielle) n'est inviolable que si elle est munie d'une fermeture officielle (cachet ou plomb) apposée par le Ministère des affaires étrangères ou une mission diplomatique. Qu'elle soit envoyée isolément ou convoyée, la valise diplomatique doit être accompagnée d'un document officiel (attestation, lettre de courrier, sauf-conduit). En principe, seuls les courriers échangés entre les missions diplomatiques et leur gouvernement sont qualifiés de valise diplomatique avec les avantages en découlant. Par courtoisie, cependant, il est d'usage d'étendre cette prérogative au courrier de légation à légation.

Le porteur du courrier ne bénéficie pas de la franchise douanière pour ses bagages personnels.

4. Les membres du corps diplomatique sont également dispensés de *témoigner en justice*. Si l'autorité judiciaire a besoin de renseignements, ceux-ci doivent être sollicités par l'intermédiaire du Département politique. Ce dernier demande alors à la mission diplomatique si l'intéressé peut être autorisé et consent à donner les indications voulues et, le cas échéant, sous quelle forme ². Les membres du personnel de 2^{ème} catégorie ne bénéficient pas de cette prérogative mais, comme tout employé d'une mission diplomatique, ils peuvent refuser de donner des renseignements sur ce qu'ils ont appris ou entendu dans l'exercice de leurs fonctions ou grâce à celles-ci.

V. Les autres privilèges et immunités diplomatiques

1. *Immunité de juridiction*. Les diplomates sont soumis aux lois, mais aucun moyen de coercition ne peut être exercé à leur égard. Les infractions commises par les membres du corps diplomatique doivent, dès lors, être l'objet d'un recours, non aux tribunaux, mais au Département politique, qui règle l'affaire par voie diplomatique. Si un particulier a un litige avec un diplomate, il lui est d'ailleurs toujours loisible de recourir aux tribunaux du pays dont ce dernier est ressortissant.

L'immunité de juridiction est à la fois pénale et civile. Comme l'inviolabilité, elle ne s'applique pas au personnel dit de 2^{ème} catégorie, sauf pour les actes relevant de leurs fonctions. Contrairement à ce qui est le cas pour les agents consulaires, l'immunité de juridiction des agents diplomatiques est absolue et s'étend aussi aux actes de leur vie privée. Une seule exception

¹ Cf. règlement d'exécution n° II du 30 janvier 1939 de la loi du 14 octobre 1922 concernant les communications télégraphiques et téléphoniques, RO 55, p. 205.

² Réponse à un questionnaire écrit transmis par voie diplomatique, visite à domicile du magistrat enquêteur ou de son délégué, ou déposition du diplomate en question dans les locaux mêmes du tribunal.

est faite lorsque l'agent exerce une activité lucrative en dehors de sa fonction officielle. Il s'agit toutefois là d'un cas très rare, puisqu'en principe les fonctions diplomatiques sont incompatibles avec une activité rémunératrice privée. De même, si un diplomate se rend acquéreur d'un bien-fonds, il est soumis en principe à la juridiction locale pour les actions locales se rapportant à cette propriété, en vertu de la *lex rei sitae*. En cas de contestation, c'est au tribunal qu'il appartiendra de trancher.

Lorsque l'infraction ou la réclamation n'est pas importante, il suffira de la signaler à la légation. Si, au contraire, elle est grave et si un règlement amiable (expertise, arbitrage) n'a pu intervenir, le Département pourra demander au chef de mission la levée de l'immunité ou le rappel de son collaborateur, selon le cas. Si l'auteur de l'infraction est le chef de mission lui-même, il faudra intervenir auprès de son gouvernement par l'entremise de la légation de Suisse accréditée auprès de ce dernier.

Le for d'un diplomate se trouve dans son pays d'origine. Son domicile, cependant, depuis que la notion « d'extraterritorialité » est tombée en désuétude, est considéré comme se trouvant à son lieu de résidence, sauf lorsque cela créerait une situation peu équitable dans des questions de transferts de devises, de paiements, etc.

2. *Exonération fiscale.* Pratiquement, les membres du corps diplomatique (chefs de mission et fonctionnaires diplomatiques de 1^{ère} catégorie) sont exonérés du paiement des impôts directs et personnels, conformément aux usages internationaux. Par impôts directs, il faut entendre également l'impôt de succession (à l'exception des successions portant sur des biens immobiliers), bien que les autorités fédérales et cantonales bernoises n'aient pas pris position dans le cas concret d'un diplomate. Le 31 janvier 1950, le Conseil exécutif du canton de Berne a pris un arrêté concernant le statut fiscal des représentations diplomatiques et consulaires étrangères à Berne, ainsi que de leurs membres. Aux termes de ces dispositions, les fonctionnaires diplomatiques de 2^{ème} catégorie bénéficient, au point de vue fiscal, des règles établies pour le personnel de 1^{ère} catégorie.

L'exonération fiscale des diplomates ne s'étend pas aux charges réelles grevant la propriété immobilière, ni aux taxes correspondant à des contributions précises de l'administration.

Le personnel domestique étranger au service du chef de mission, à l'exclusion de ses proches, est exonéré dans la même mesure que le chef de mission. Le personnel domestique au service personnel d'un fonctionnaire de 1^{ère} catégorie n'est assimilé au personnel domestique du chef de mission que s'il est de la même nationalité. Le personnel domestique au service personnel d'un fonctionnaire diplomatique de 2^{ème} catégorie n'a droit, quelle que soit sa nationalité, à aucun privilège quelconque.

Des dispositions ont été prises dans la légation fédérale pour exempter les États étrangers et les membres du corps diplomatique des contributions prévues au titre de sacrifice pour la défense nationale (A. C. F. des 19 juillet 1940 et 20 novembre 1942), de l'impôt pour la défense nationale (A. C. F. du 9 décembre 1940) ou de l'impôt fédéral anticipé (ordonnance I A du 20 novembre 1944).

En vertu de la loi bernoise du 27 juillet 1866 n'autorisant d'exception à l'interdiction de vente des *biens-fonds* à un État étranger que si l'immeuble en question reste soumis aux lois en vigueur, les bâtiments des légations qui sont propriété d'un État étranger sont soumis également à la loi fiscale. A

fortiori, les membres du corps diplomatique doivent acquitter les impôts pour les immeubles qu'ils pourraient posséder en Suisse. Selon le règlement d'exécution de la loi fédérale sur l'assurance vieillesse et survivants du 31 octobre 1947, les membres du personnel officiel des missions diplomatiques accréditées auprès de la Confédération suisse, ainsi que les familles de ces personnes, sont exclus de l'assurance vieillesse. Il en est de même pour les domestiques des diplomates titulaires de la carte rose de légitimation lorsqu'ils possèdent la même nationalité que leur employeur.

Les diplomates ne sont pas exemptés des *impôts indirects* (impôts de luxe, sur le chiffre d'affaires, droits de monopole sur l'alcool, de timbre, droits de douane grevant les transactions ou achats effectués en Suisse, etc.). Il est entendu que les importations en franchise douanière ne sont pas assujetties à ces impôts indirects.

En ce qui concerne les *automobiles*, il n'existe que des prescriptions cantonales. A Berne, les fonctionnaires de 1^{ère} et de 2^{ème} catégories sont exemptés de l'impôt sur les automobiles. Par courtoisie, le canton a, de plus, renoncé à percevoir les taxes pour l'octroi et le renouvellement des permis de conduire et de circulation, la délivrance des plaques de police, le contrôle de la voiture et l'examen de conduire.

Le canton de Berne exempte les diplomates de la *taxe sur les chiens*. Quant aux *taxes de séjour*, qui correspondent à une contre-prestation de l'administration, les diplomates n'en sont pas exonérés; cependant la ville de Berne a, par arrêté du 19 juillet 1939, renoncé au prélèvement de la contribution dite d'hébergement (*Beherbergungsabgabe*) en faveur des membres du personnel des missions diplomatiques accréditées à Berne.

Les postes radio-électriques destinés à l'usage d'une mission diplomatique ou de l'un de ses membres résidant en Suisse sont assimilés, à tous égards, aux postes appartenant à des particuliers. Ils restent, par conséquent, soumis au contrôle technique de l'Administration des télégraphes et des téléphones, chargée de la surveillance des installations à faible courant, et, notamment, aux dispositions concernant l'octroi d'une concession et l'acquittement de la taxe y afférente.

3. *Traitement en douane*. Il fait l'objet du règlement du 1^{er} avril 1947 entré en vigueur le 1^{er} mai 1947 en exécution des articles 14 (chiffres 4, 5, 8), 19 et 142 de la loi fédérale sur les douanes du 1^{er} octobre 1925.

Les missions diplomatiques jouissent de la franchise douanière pour les objets destinés à leur usage exclusif, à savoir:

- a) les emblèmes officiels (drapeaux, écussons, etc.);
- b) les documents officiels et les imprimés de service;
- c) les fournitures de bureau;
- d) le mobilier des locaux.

Les chefs de missions diplomatiques accrédités auprès de la Confédération ont droit, sous réserve de réciprocité, à l'admission en franchise de tous objets destinés à leur usage exclusif ou à celui des membres de leur famille vivant à leur charge (conjoint et enfants mineurs). Les collaborateurs diplomatiques des chefs de mission (conseillers, auditeurs, secrétaires et attachés d'ambassade ou de légation, y compris les attachés spéciaux) peuvent revendiquer, sous réserve de réciprocité, l'admission en franchise:

- a) de leur mobilier de premier établissement à condition qu'il soit utilisé par l'ayant-droit et ne soit pas aliéné avant 5 ans à partir de l'admission en franchise;

b) de tous les autres objets destinés à leur usage exclusif ou à celui de leur famille.

Les chefs de mission et leurs collaborateurs diplomatiques ont droit, sous réserve de réciprocité, tous les trois ans, à l'admission en franchise d'une voiture automobile, à condition de l'utiliser personnellement et de ne pas l'aliéner avant 3 ans en Suisse, soit à titre gratuit, soit à titre onéreux.

En ce qui concerne le personnel de 2^{ème} catégorie et les chefs de chancellerie, aucun avantage n'est prévu par le règlement du 1^{er} avril 1947; dans la pratique cependant, la Direction générale des douanes accorde des passavants pour leurs voitures automobiles. Elle peut demander le dépôt des droits de douane. Les triptyques délivrés par les clubs d'automobilistes ne sont valables que pour le tourisme. Le membre d'une mission diplomatique important sa voiture avec un triptyque doit, en s'établissant à Berne annoncer l'importation à la Direction générale des douanes, laquelle règle le statut douanier directement avec l'intéressé. Les passavants délivrés au personnel de 2^{ème} catégorie sont valables pour une année et peuvent être renouvelés si le bénéficiaire conserve sa qualité de fonctionnaire d'une mission diplomatique.

Seuls les chefs de mission et leur famille sont exemptés, suivant le principe de la réciprocité, du *contrôle douanier*. Les bagages des autres membres du corps diplomatique peuvent être vérifiés. Dans la pratique, les autorités douanières se montrent tolérantes.

Le règlement de 1947 résumé ci-dessus ne s'applique qu'aux représentants des États accordant la réciprocité. S'il est établi qu'un État n'utilise pas de réciprocité, ce sont alors les dispositions générales de la loi sur les douanes qui sont appliquées. Des facilités temporaires peuvent toutefois être consenties, suivant les circonstances.

D'une manière générale, les contestations avec des diplomates doivent être traitées par voie diplomatique, en premier lieu par l'intermédiaire de la mission diplomatique intéressée, mais, si c'est nécessaire, par la représentation suisse compétente à l'étranger.

B. PRIVILÈGES ET IMMUNITÉS DU PERSONNEL CONSULAIRE

Les consuls sont des agents chargés par leur gouvernement d'assurer la protection des intérêts commerciaux des ressortissants du pays qu'ils représentent et de veiller au respect des traités d'établissement, de commerce, etc. N'étant pas des représentants diplomatiques, ils ne sont pas munis de lettres de créance; l'exercice de leurs fonctions implique toutefois des lettres de provision établies par leur gouvernement et l'exequatur du pays où ils résident.

S'il arrive que, dans des pays où le gouvernement mandant n'entretient pas de représentation diplomatiques, les consuls aient accès au Ministère des Affaires étrangères, c'est en vertu d'une tolérance qui ne saurait jamais devenir un droit.

Du fait de leurs fonctions, les consuls ont droit à des égards et à certaines immunités. Ils ne peuvent, en revanche, se prévaloir de l'ensemble des privilèges ou droits accordés aux membres du corps diplomatique.

I. Catégories du personnel consulaire

Il faut distinguer les catégories suivantes dans le personnel des consulats étrangers:

1. a) *les chefs de poste consulaire* bénéficiant de l'exequatur du Conseil fédéral, qu'ils soient fonctionnaires de carrière ou honoraires, leur femme et leurs enfants;
- b) *les consuls et vice-consuls non chefs de poste*. Le personnel indiqué dans cette première catégorie constitue le groupe des hauts fonctionnaires consulaires.
2. a) *les fonctionnaires consulaires de carrière*, c'est-à-dire ceux qui sont nommés par leur gouvernement et qui n'exercent aucune profession en dehors de leurs fonctions consulaires, leur femme et leurs enfants;
- b) *le personnel subalterne des consulats* engagé par le chef de poste. Dans cette seconde catégorie on trouve, par exemple, les commis, copistes, sténodactylographes, huissiers, etc.

Le personnel consulaire de carrière ne doit exercer aucune activité professionnelle en dehors de ses fonctions, tandis que le personnel honoraire peut en exercer une.

Le chef de poste, qu'il soit consul général, consul ou vice-consul de carrière ou honoraire, ou gérant, est reconnu par le Conseil fédéral dès que l'exequatur lui est accordé.

Le titulaire d'une agence consulaire est annoncé seulement au Département politique; il ne jouit d'aucun privilège.

II. *Privilèges et immunités des consuls*

Certaines facilités sont accordées aux hauts fonctionnaires consulaires par les autorités fédérales.

1. *Règlement des conditions de séjour*. Les hauts fonctionnaires consulaires sont dispensés de régler leurs conditions de séjour (dépôt de papiers de légitimation, permis de séjour ou d'établissement, paiement des taxes fédérales et cantonales y relatives). Des visas de retour leur sont accordés gratuitement. Les hauts fonctionnaires consulaires doivent être annoncés au Conseil d'État du canton de résidence par leur chef de poste, lequel communique également les changements apportés au personnel des consulats. Il est entendu que les fonctionnaires consulaires de nationalité suisse doivent régler leurs conditions de séjour lorsqu'ils ne résident pas dans leur canton d'origine.

2. *Immunité de juridiction:*

a) Les hauts fonctionnaires consulaires ne jouissent de l'immunité de juridiction que pour les actes relevant de leurs fonctions, qu'ils soient de carrière ou honoraires, de nationalité suisse ou étrangère.

b) Une procédure civile ou pénale contre un chef de poste consulaire ne peut être cependant ouverte sans que le Département politique en ait été informé et ait pu se prononcer à son sujet.

L'usage international et la courtoisie recommandent en outre d'observer à l'égard des hauts fonctionnaires consulaires les règles suivantes:

c) de ne pas les soumettre à la juridiction locale pour les délits de peu d'importance (amende);

d) le cas échéant, d'envoyer les notifications d'amende à leur domicile privé et de ne pas employer à cette fin une formule imprimée;

e) de ne pas exiger leur témoignage, mais les prier de le fournir, par écrit ou oralement, devant un représentant du tribunal.

Les *archives* des consulats sont inviolables.

3. Exonération fiscale

a) La Confédération exonère, sous réserve de réciprocité, les hauts fonctionnaires consulaires *de carrière* de l'impôt et du sacrifice de la défense nationale, de l'impôt fédéral anticipé et recommande aux cantons de faire de même pour tous les impôts directs, l'impôt foncier faisant exception. En fait, la très grande majorité des cantons exonère le personnel consulaire de carrière des impôts directs cantonaux.

b) L'impôt sur les voitures automobiles est considéré comme un impôt direct et n'est pas prélevé sur les hauts fonctionnaires consulaires de carrière. Les fonctionnaires consulaires de carrière ou honoraires n'ont pas le droit de munir leur voiture de la plaque CD qui est réservée aux personnes jouissant des privilèges et immunités diplomatiques. Quant aux plaques CC, les prescriptions en vigueur ne prévoient rien à leur égard. Les agents consulaires peuvent l'apposer à leur voiture selon leur bon plaisir.

c) Les consuls honoraires de nationalité suisse ou étrangère jouissent de l'immunité fiscale pour les revenus de leurs fonctions officielles seulement.

4. *Traitement en douane.* Il est réglé par le règlement du Conseil fédéral du 1^{er} avril 1947, entré en vigueur le 1^{er} mai 1947, en exécution des articles 14, 19 et 142 de la loi fédérale sur les douanes du 1^{er} octobre 1925.

Sont admis en franchise douanière les objets suivants, s'ils sont destinés à l'usage exclusif d'un consulat général, d'un consulat ou vice-consulat, ou d'une agence consulaire:

- a) les emblèmes officiels (drapeaux, écussons, sceaux, etc.);
- b) les documents officiels et les imprimés de service;
- c) les fournitures de bureau;
- d) les coffres-forts et les classeurs.

Le personnel consulaire de la catégorie 1 obtient, sous réserve de réciprocité, dans le délai d'un an à partir de son entrée en fonctions, les facilités suivantes pour les envois qui lui sont destinés:

a) la franchise à l'importation du mobilier et de vivres et boissons en quantité limitée lors de la première installation (voir règlement douanier appliqué aux fonctionnaires des organisations internationales à Genève);

b) la franchise à l'importation d'une voiture automobile, moyennant engagement de ne pas l'aliéner durant 5 ans. La vente en Suisse de ce véhicule, avant l'expiration de ce délai, sera toutefois autorisée contre paiement des droits de douane, à un tarif dégressif fixé selon le nombre d'années écoulées depuis l'importation;

c) en outre, la Direction générale des douanes a admis l'importation en franchise du mobilier destiné aux locaux des consulats.

Le règlement d'exécution du 31 octobre 1947 de la loi fédérale sur l'assurance vieillesse et survivants prévoit que les fonctionnaires consulaires de carrière sont exemptés de l'obligation de payer des cotisations, et de ce fait exclus de l'assurance.

N.B. — Salis/Burckhardt est cité d'après l'édition française de 1930; les chiffres entre parenthèses renvoient à la pagination différente de l'édition allemande.

b) ARRÊTÉ DU CONSEIL FÉDÉRAL CONCERNANT LA PERCEPTION D'UN IMPÔT POUR LA DÉFENSE NATIONALE, 9 DÉCEMBRE 1940, MODIFIÉ

CHAPITRE PREMIER. — ASSUJETTISSEMENT

Article 3. Sont assujetties à l'impôt pour la défense nationale, sous réserve des dispositions contraires contenues dans des conventions internationales:

3. Les autres personnes physiques et morales, ainsi que les sociétés commerciales étrangères sans personnalité juridique:

- a) Qui sont propriétaires ou usufruitières d'immeubles sis en Suisse;
- b) Qui sont propriétaires ou usufruitières de créances garanties par des immeubles sis en Suisse ou par l'engagement de titres hypothécaires suisses;
- c) Qui sont intéressées comme propriétaires, associées ou commanditaires à des entreprises exploitées en Suisse;
- d) Qui entretiennent en Suisse des établissements stables;
- e) Qui exercent en Suisse une activité personnelle;
- f) Qui, en qualité de membres de l'administration ou d'organes de la direction de personnes morales ayant leur siège en Suisse, reçoivent des tantièmes;
- g) Qui, en qualité de membres de l'administration de personnes morales ayant leur siège en Suisse, reçoivent des jetons de présence, des indemnités fixes ou d'autres rémunérations;
- h) Qui, ensuite de rapports de service antérieurs, reçoivent, de caisses publiques suisses, des retraites, des pensions, des rentes de vieillesse ou d'invalidité;

Article 17. 1. Sont aussi exonérés de l'impôt:

- a) Les États étrangers et leurs chefs de missions accrédités auprès de la Confédération, pour les immeubles qui leur appartiennent et sont affectés exclusivement à l'usage de la mission;
- b) Les membres des missions diplomatiques accréditées auprès de la Confédération et ceux des organisations internationales, en tant qu'ils jouissent de l'exemption fiscale en vertu d'un droit contractuel ou de l'usage;
- c) Les consuls de carrière et les fonctionnaires consulaires de carrière.

2. Si l'État étranger n'accorde pas la réciprocité, le Conseil fédéral peut édicter des dérogations à ces prescriptions.

3. Sous réserve du premier alinéa, lettre *a*, l'exemption ne s'étend pas aux objets mentionnés à l'article 20, premier alinéa, lettres *a* à *d* et *f* à *h*.

4. Les citoyens suisses n'ont pas droit à l'exemption prévue au premier alinéa.

CHAPITRE II. — L'IMPÔT POUR LA DÉFENSE NATIONALE DÛ PAR LES PERSONNES PHYSIQUES

A. *Objet de l'impôt et bases du calcul*

Article 20. 1. Les personnes assujetties en conformité de l'article 3, chiffre 3, paient l'impôt:

a) Sur les immeubles sis en Suisse dont elles sont propriétaires ou usufruitières et sur le revenu en provenant;

b) Sur leurs créances garanties par des immeubles sis en Suisse ou par l'engagement de titres hypothécaires suisses et sur le rendement de ces créances;

c) Sur la fortune placée par elles, à titre de propriétaires, d'associés ou de commanditaires, dans des entreprises commerciales exploitées en Suisse et sur le revenu en provenant;

d) Sur la fortune placée par elles dans des établissements stables en Suisse et sur le revenu en provenant;

e) Sur les revenus provenant d'une activité personnelle exercée en Suisse;

f) Sur les tantièmes qu'elles reçoivent en qualité de membres de l'administration ou d'organes de la direction d'une personne morale ayant son siège en Suisse;

g) Sur les jetons de présence, les indemnités fixes et autres rémunérations qu'elles reçoivent en qualité de membres de l'administration d'une personne morale ayant son siège en Suisse;

h) Sur les sommes qui leur sont versées par des caisses publiques suisses ensuite de rapports de service antérieurs.

. . .

c) ARRÊTÉ DU CONSEIL FÉDÉRAL CONCERNANT LA PERCEPTION D'UNE NOUVELLE CONTRIBUTION AU TITRE DE SACRIFICE POUR LA DÉFENSE NATIONALE, 20 NOVEMBRE 1942

Le Conseil fédéral suisse,

vu l'article 3 de l'arrêté fédéral du 30 août 1939 sur les mesures propres à assurer la sécurité du pays et le maintien de sa neutralité, arrête:

. . .

Article 4. Les personnes physiques et les personnes morales mentionnées dans les articles 16 et 17 de l'arrêté concernant l'impôt pour la défense nationale sont exonérées de la nouvelle contribution dans la mesure où leur fortune n'est pas soumise à l'impôt général pour la défense nationale.

. . .

d) ORDONNANCE N° IA DU 20 NOVEMBRE 1944¹ (DROIT À L'IMPUTATION ET AU REMBOURSEMENT)

Article premier. Outre celles qui sont visées à l'article 7 de l'arrêté instituant un impôt anticipé, les personnes suivantes ont le droit de demander à la Confédération le remboursement dudit impôt dont elles sont en mesure d'établir qu'il est échu à leur charge:

. . .

g) Les organismes internationaux établis en Suisse et leurs fonctionnaires, les membres des missions diplomatiques accréditées auprès de la Confédération, ainsi que les consuls de carrière et les fonctionnaires consulaires de carrière, si les dispositions légales, le droit contractuel ou l'usage les exonè-

¹ Remplace l'ordonnance n° 1 du 4 décembre 1943.

rent du paiement d'impôts cantonaux sur les titres et avoirs en banque et sur le rendement de ces valeurs;

h) Les États étrangers, en tant que l'impôt a été déduit des intérêts d'avoirs placés par eux dans des banques suisses à l'usage exclusif de leurs représentants diplomatiques et consulaires;

e) ARRÊTÉ DU CONSEIL EXÉCUTIF DU CANTON DE BERNE CONCERNANT LE STATUT FISCAL DES REPRÉSENTATIONS DIPLOMATIQUES ET CONSULAIRES ÉTRANGÈRES À BERNE, AINSI QUE DE LEURS MEMBRES, 31 JANVIER 1950

Le Conseil exécutif du canton de Berne,

en abrogation de tous les arrêtés antérieurs concernant l'imposition des représentations diplomatiques et consulaires étrangères, arrête:

L'aperçu qui suit renseigne sur les privilèges accordés actuellement à Berne aux représentations diplomatiques étrangères et à leur personnel, ainsi qu'aux consuls et fonctionnaires consulaires étrangers, dans le domaine des impôts directs fédéraux, cantonaux et communaux. Les textes législatifs à consulter sont: 1. L'arrêté du Conseil fédéral du 9 décembre 1940 (révisé le 19 octobre 1948) instituant l'impôt pour la défense nationale (spécialement les articles 17 et 20); 2. La loi bernoise du 29 octobre 1944 sur les impôts directs cantonaux et communaux (particulièrement les articles 23, 217 et 228); 3. L'ordonnance n° 1a, du Département fédéral des finances et des douanes du 20 novembre 1944 sur l'impôt anticipé.

Il convient d'observer les points suivants:

1. Les allègements fiscaux mentionnés ne sont accordés dans la règle que si l'État étranger accorde la réciprocité.

2. Les dispositions contraires des conventions internationales ont le pas sur la présente réglementation fiscale.

3. Les citoyens suisses (y compris les doubles nationaux) qui sont au service d'une représentation diplomatique ou consulaire étrangère à Berne ne jouissent d'aucun privilège fiscal.

I. HÔTELS DES LÉGATIONS

Les immeubles appartenant à des États étrangers et affectés à l'usage de leur représentation diplomatique à Berne ne sont pas soumis aux impôts sur le revenu et la fortune perçus par la Confédération et le canton, ni aux impôts directs perçus par la commune de Berne sur la base du registre des impôts cantonaux. Ils sont soumis à la taxe immobilière de la commune de Berne, qui comporte actuellement 1,8% de la valeur officielle des biens-fonds.

II. MEMBRES DES REPRÉSENTATIONS DIPLOMATIQUES ÉTRANGÈRES

A. *Les chefs de missions*

(Titulaires de la carte d'identité rose à liseré rouge, établie par le Département politique fédéral.)

1. *a)* Les immeubles appartenant aux chefs de missions et destinés à l'usage de la représentation diplomatique (résidence du ministre) sont traités comme les hôtels des légations (chiffre I).

b) Les *chefs de missions* jouissent en outre de l'exonération fiscale pour le revenu provenant de l'exercice de leur charge ainsi que pour leur fortune placée en Suisse ou à l'étranger, et pour le revenu qui en découle. Ils paient en revanche l'impôt:

Sur les biens-fonds sis en Suisse, dont ils sont propriétaires ou usufruitiers et sur le revenu qui en provient (l'exonération selon chiffre II, A, 1, a, demeurant réservée);

Sur leurs créances garanties par des immeubles sis en Suisse ou par l'engagement de titres hypothécaires suisses et sur le rendement de ces créances;

Sur la fortune placée par eux, à titre de propriétaires, d'associés ou de commanditaires, dans des entreprises commerciales exploitées en Suisse et sur le revenu qui en provient;

Sur la fortune placée par eux dans des établissements stables en Suisse et sur le revenu qui en provient;

Sur les tantièmes qu'ils reçoivent en qualité de membres de l'administration ou d'organes de la direction d'une personne morale ayant son siège en Suisse;

Sur les jetons de présence, les indemnités fixes et autres rémunérations qu'ils reçoivent en qualité de membres de l'administration d'une personne morale ayant son siège en Suisse;

Sur les sommes qui leur sont versées par des caisses publiques suisses ensuite de services antérieurs.

c) L'*impôt fédéral anticipé* mis à la charge des chefs de missions est remboursé sur demande motivée (selon formule 25) par l'Administration fédérale des contributions à Berne.

2. Les *membres de la famille* les plus proches (épouse, enfants, parents et beaux-parents) faisant ménage commun avec le chef de mission et n'exerçant pas d'activité lucrative, de même que les secrétaires privés des chefs de missions, jouissent de la même exonération que ces derniers (chiffre II, A, 1, b et c).

3. Le *personnel domestique* étranger au service personnel du chef de mission (maîtres d'hôtel, cuisiniers, chauffeurs, valets ou femmes de chambre, jardiniers etc.) sont, à l'exclusion de leurs proches, exonérés dans la même mesure que le chef de mission (chiffre II, A, 1, b et c).

B. *Personnel diplomatique de 1^{ère} catégorie*

(Titulaire de la carte de légitimation rose.)

1. Les *fonctionnaires diplomatiques de la 1^{ère} catégorie* jouissent des mêmes privilèges fiscaux (chiffre II, A, 1, b et c) que le chef de mission.

2. Parmi les membres de leur famille faisant ménage commun avec les fonctionnaires diplomatiques de la 1^{ère} catégorie et n'exerçant aucune activité lucrative, seuls l'épouse et les enfants, à l'exclusion des parents et beaux-parents, sont assimilés du point de vue fiscal aux membres de la famille du chef de mission (chiffre II, A, 2).

3. Le personnel domestique au service personnel d'un fonctionnaire diplomatique de 1^{ère} catégorie n'est assimilé au personnel domestique du chef de mission (chiffre II, A, 3) que s'il est ressortissant du même État que son maître.

C. Personnel diplomatique de 2^{ème} catégorie

(Titulaire de la carte de légitimation bleue.)

1. Les fonctionnaires diplomatiques de 2^{ème} catégorie et les membres de leur famille sont traités, au point de vue fiscal, d'après les règles établies pour le personnel diplomatique de 1^{ère} catégorie (chiffre II, B, 1 et 2).

2. Par contre, le *personnel domestique* au service personnel d'un fonctionnaire diplomatique de 2^{ème} catégorie n'a droit, sans égard à sa nationalité, à aucun privilège fiscal quelconque.

III. CONSULS ET FONCTIONNAIRES CONSULAIRES

1. Les *consuls de carrière* et les *fonctionnaires consulaires de carrière*, de même que les membres de leur famille, sont traités au point de vue fiscal d'après les règles établies pour le personnel diplomatique de 1^{ère} et 2^{ème} catégorie (chiffre II, B, 1 et 2; C, 1).

2. Par contre, le *personnel domestique* au service personnel d'un consul de carrière ou d'un fonctionnaire consulaire de carrière n'a droit, sans égard à sa nationalité, à aucun privilège fiscal quelconque.

3. Les *consuls honoraires* étrangers sont exonérés des impôts directs sur les rémunérations qu'ils reçoivent de leur État pour leur activité consulaire. Ils ne jouissent d'aucun autre privilège fiscal.

f) RÈGLEMENT SUR LE TRAITEMENT EN DOUANE DES ENVOIS DESTINÉS AUX MISSIONS DIPLOMATIQUES À BERNE ET À LEUR PERSONNEL, AINSI QU'ÀUX REPRÉSENTATIONS CONSULAIRES EN SUISSE ET À LEUR PERSONNEL, 24 AOÛT 1955

Le Conseil fédéral suisse,

vu l'article 14, chiffres 4, 5 et 8, les articles 19 et 142 de la loi sur les douanes du 1^{er} octobre 1925,

arrête:

A. MISSIONS DIPLOMATIQUES À BERNE

CHAPITRE PREMIER. — ENVOIS DESTINÉS AUX MISSIONS DIPLOMATIQUES

Article premier. Étendue de la franchise.

1. Sont admis en franchise tous les objets destinés à l'usage exclusif des missions diplomatiques (nonciature, ambassades et légations).

L'importation des véhicules à moteur est soumise aux dispositions du chapitre VII.

La vente d'essence franche de droits est prévue au chapitre VIII.

2. Les objets admis en franchise doivent être utilisés pour les besoins exclusifs de la mission diplomatique et ne peuvent pas être remis à des tiers en propriété ou en gage et leur usage ne peut être cédé, à titre gratuit ou onéreux, dans le territoire douanier suisse, pendant un délai de cinq ans dès l'admission en franchise, sans que la mission ait demandé auparavant l'autorisation de l'administration des douanes, acquitté les droits et autres redevances dus et observé toutes les prescriptions relatives à l'importation des marchandises.

Article 5. Chefs de mission.

Étendue de la franchise.

Les chefs de mission diplomatique accrédités auprès du Conseil fédéral (nonce, ambassadeurs, ministres plénipotentiaires, chargés d'affaires) ont droit à l'admission en franchise de toutes les marchandises importées de l'étranger et destinées à leur usage exclusif, à celui de leur conjoint ou de leurs enfants mineurs vivant avec eux.

Pour bénéficier de la franchise, les marchandises doivent être leur propriété ou le devenir aussitôt après l'importation.

L'importation des véhicules à moteur est soumise aux dispositions du chapitre VII.

La vente d'essence franche de droits est prévue au chapitre VIII.

. . . .

Article 7. Collaborateurs diplomatiques.

Étendue de la franchise.

Les collaborateurs diplomatiques des chefs de mission, tels que les auditeurs et secrétaires de la nonciature, les conseillers, secrétaires et attachés d'ambassades ou de légations, y compris les attachés spéciaux (militaires, de l'air, commerciaux, culturels, de presse, etc.), ont droit à l'admission en franchise :

a) Du mobilier, neuf ou usagé, à condition qu'il soit leur propriété ou le devienne aussitôt après l'importation et qu'il soit destiné à leur usage personnel. Cette facilité ne peut être revendiquée qu'une fois;

b) De tous les objets non mentionnés sous lettre a ci-dessus destinés à leur usage exclusif, à celui de leur conjoint ou de leurs enfants mineurs vivant avec eux.

L'importation des objets de première installation (premier envoi et arrivages ultérieurs éventuels) doit se faire dans l'année qui suit le transfert en Suisse du bénéficiaire.

L'importation en franchise de mobilier est soumise à la condition que le destinataire soit domicilié en Suisse. La notion du domicile est définie par l'article 23 du Code civil suisse.

L'importation des véhicules à moteur est soumise aux dispositions du chapitre VII.

La vente d'essence franche de droits est prévue au chapitre VIII.

. . . .

Article 9. Trafic des voyageurs.

Chefs de mission.

1. Dans le trafic des voyageurs, les privilèges prévus à l'article 5 sont accordés, sans formalités, aux chefs de mission seulement.

2. Les membres de la famille des chefs de mission ne bénéficient d'un traitement analogue que lorsqu'ils voyagent avec eux. S'ils voyagent seuls, le traitement douanier prévu au chiffre 3 ci-après leur est appliqué.

Collaborateurs diplomatiques.

3. Les marchandises passibles de droits, importées par les collaborateurs diplomatiques et les membres de leur famille, dans le trafic des voyageurs,

sont dédouanées provisoirement ou acheminées en transit sur le bureau de douane de Berne. Les droits de douane et autres redevances doivent être garantis suivant les dispositions générales de la loi sur les douanes. La franchise sera accordée dès que le bénéficiaire aura remis au bureau de douane de Berne la formule spéciale de dédouanement.

4. L'octroi des facilités précitées est subordonné à la présentation de la carte de légitimation délivrée par le département politique fédéral.

B. REPRÉSENTATIONS CONSULAIRES EN SUISSE

CHAPITRE III. — ENVOIS DESTINÉS AUX REPRÉSENTATIONS CONSULAIRES

Article 10. Étendue de la franchise.

1. Sont admis en franchise tous les objets destinés à l'usage exclusif d'une représentation consulaire (consulat général, consulat, vice-consulat ou agence consulaire).

L'importation des véhicules à moteur est soumise aux dispositions du chapitre VII.

L'essence utilisée par les représentations consulaires est exclue de la franchise douanière.

2. Les objets admis en franchise doivent être utilisés pour les besoins exclusifs de la représentation consulaire et ne pas être remis à des tiers en propriété ou en gage et leur usage ne peut être cédé, à titre gratuit ou à titre onéreux, dans le territoire douanier suisse, pendant un délai de cinq ans dès l'admission en franchise, sans que la représentation consulaire ait demandé auparavant l'autorisation de l'administration des douanes, acquitté les droits et autres redevances dus et observé toutes les prescriptions relatives à l'importation des marchandises.

CHAPITRE IV. — ENVOIS DESTINÉS AUX MEMBRES DU CORPS CONSULAIRE

Article 15. Chefs de poste.

Étendue de la franchise.

Les chefs de poste de nationalité étrangère appartenant à la carrière consulaire proprement dite et auxquels le Conseil fédéral a accordé l'exequatur (consuls généraux, consuls et vice-consuls) ont droit à l'admission en franchise :

a) Du mobilier, neuf ou usagé, à condition qu'il soit leur propriété ou le devienne aussitôt après l'importation et qu'il soit destiné à leur usage personnel. Cette facilité ne peut être revendiquée qu'une fois.

b) Des denrées alimentaires, boissons et tabacs destinés à leur usage exclusif ou à celui de leur conjoint ou enfants mineurs vivant avec eux.

L'importation des objets de première installation (premier envoi et arrivages ultérieurs éventuels) doit se faire dans l'année qui suit le transfert du bénéficiaire en Suisse.

L'importation en franchise de mobilier est soumise à la condition que le destinataire soit domicilié en Suisse. La notion du domicile est définie par l'article 23 du Code civil suisse.

L'importation des véhicules à moteur est soumise aux dispositions du chapitre VII.

Article 17. Collaborateurs des chefs de poste.

Étendue de la franchise.

Les consuls généraux, consuls et vice-consuls de carrière attribués comme fonctionnaires à la représentation consulaire de leur pays en Suisse ont droit à l'admission en franchise:

a) Du mobilier, neuf ou usagé, à condition qu'il soit leur propriété ou le devienne aussitôt après l'importation et qu'il soit destiné à leur usage personnel. Cette facilité ne peut être revendiquée qu'une fois.

b) Des denrées alimentaires et des boissons qu'ils importent à l'occasion de leur première installation. L'admission en franchise est cependant limitée aux quantités ne dépassant pas les besoins normaux du fonctionnaire et des membres de sa famille (conjoint et enfants mineurs) vivant avec lui.

L'importation des objets de première installation (premier envoi et arrivages ultérieurs éventuels) doit se faire dans l'année qui suit le transfert en Suisse du bénéficiaire.

L'importation en franchise de mobilier est soumise à la condition que le destinataire soit domicilié en Suisse. La notion du domicile est définie par l'article 23 du Code civil suisse.

L'importation des véhicules à moteur est soumise aux dispositions du chapitre VII.

Article 19. Représentants consulaires honoraires ou de nationalité suisse.

Les facilités prévues aux articles 15, 17 et 26 du présent règlement ne sont pas applicables aux représentants consulaires honoraires ou de nationalité suisse. Les envois destinés à ces derniers sont soumis aux prescriptions générales de la législation douanière.

C. PERSONNEL TECHNIQUE ET AUXILIAIRE

CHAPITRE V. — ENVOIS ET OBJETS DE DÉMÉNAGEMENT DESTINÉS AUX AUTRES FONCTIONNAIRES DES MISSIONS DIPLOMATIQUES À BERNE ET DES REPRÉSENTATIONS CONSULAIRES ÉTRANGÈRES EN SUISSE (PERSONNEL TECHNIQUE ET AUXILIAIRE)

Article 20. Généralités.

Les envois destinés au personnel technique et auxiliaire des missions diplomatiques à Berne et des représentations consulaires étrangères en Suisse (chefs de chancellerie, secrétaires et commis de chancellerie, sténodactylographes et téléphonistes, chiffreurs, chauffeurs, etc.) sont soumis aux prescriptions générales de la législation douanière.

L'article 14, chiffre 8 de la loi fédérale sur les douanes est applicable au dédouanement du mobilier, des objets de déménagement et des véhicules à moteur (v.a., art. 27).

D. DISPOSITIONS SPÉCIALES

CHAPITRE VI

Article 22. Aliénation d'objets de première installation.

1. Moyennant autorisation de la direction générale des douanes, les objets admis en franchise à titre d'effets de première installation sur la base des articles 7, 17 et 20 peuvent être cédés, sans paiement des droits de douane,

avant l'expiration du délai de cinq ans, à un autre bénéficiaire de privilèges douaniers, à condition qu'il soit en droit de revendiquer l'admission en franchise d'effets de première installation et qu'il endosse les obligations du cédant.

2. En cas d'aliénation à d'autres personnes, avant l'expiration du délai de cinq ans, la direction générale des douanes peut, en raison de circonstances spéciales, accorder des allègements.

E. RÉGIMES PARTICULIERS

CHAPITRE VII. — VÉHICULES À MOTEUR

Article 23. Véhicules destinés aux missions diplomatiques à Berne.

1. Les missions diplomatiques à Berne bénéficient du droit d'importer en franchise les véhicules à moteur destinés à leur usage exclusif et mis à leur disposition par leur gouvernement.

2. Les conditions d'importation, de vente et de cession à d'autres bénéficiaires sont réglées par l'article 28.

3. Pour les automobiles et les motocyclettes, le délai de non-vente est de trois ans; pour les autres véhicules (camions, avions, etc.), le délai est de cinq ans.

Article 24. Véhicules à moteur destinés aux membres du corps diplomatique à Berne.

1. Les membres du corps diplomatique domiciliés en Suisse ont droit, tous les trois ans, à l'exonération douanière d'une automobile ou d'une motocyclette destinée à leur usage personnel. La notion du domicile est définie par l'article 23 du Code civil suisse.

Ce véhicule doit être leur propriété ou le devenir aussitôt après l'importation.

2. Ces personnes peuvent également importer, tous les cinq ans, dans les mêmes conditions, un aéronef et un bateau de plaisance.

3. Les conditions d'importation, de vente et de cession à d'autres bénéficiaires sont réglées par l'article 28.

Article 25. Véhicules à moteur destinés aux représentations consulaires étrangères en Suisse.

1. Les représentations consulaires étrangères en Suisse ne peuvent pas revendiquer l'exonération douanière pour des véhicules à moteur.

2. L'admission en franchise temporaire, sous le couvert du dédouanement avec passavant, peut être accordée par la direction générale des douanes pour les automobiles ou les motocyclettes mises à la disposition d'une représentation consulaire par son gouvernement, si cette représentation est gérée par un fonctionnaire consulaire de carrière de nationalité étrangère.

Article 26. Véhicules à moteur destinés aux membres du corps consulaire en Suisse.

1. Les consuls généraux, les consuls et les vice-consuls appartenant à la carrière consulaire proprement dite et attribués soit comme chefs de poste, soit comme fonctionnaires à la représentation consulaire de leur pays en Suisse, peuvent demander l'exonération douanière d'une automobile destinée à leur usage exclusif.

Ce véhicule doit être leur propriété ou le devenir aussitôt après l'importation.

2. Cette facilité ne peut être revendiquée qu'une seule fois et l'importation doit se faire dans l'année qui suit le transfert en Suisse d'un membre du corps consulaire. Le délai de non-vente est de trois ans.

3. Les conditions d'importation, de vente et de cession à d'autres bénéficiaires sont réglées par l'article 28.

4. L'article 19 fait règle pour les représentants consulaires honoraires.

Article 27. Véhicules à moteur destinés au personnel technique et auxiliaire des missions diplomatiques à Berne et des représentations consulaires étrangères en Suisse.

Si les conditions pour l'importation en franchise douanière d'un véhicule à moteur à titre d'objet de déménagement sur la base de l'article 13 du règlement d'exécution de la loi sur les douanes ne sont pas remplies, l'admission en franchise temporaire, sous le couvert d'un passavant, peut être accordée par la direction générale des douanes.

Article 28. Dispositions spéciales concernant l'importation, la vente et la cession des véhicules à moteur.

1. L'importation en franchise d'un véhicule à moteur sur la base des articles 23 à 27 doit être demandée, dans tous les cas, par la mission diplomatique à Berne à la direction générale des douanes.

Si un pays n'a pas de représentation diplomatique à Berne, la franchise sur la base des articles 25 à 27 sera demandée par la représentation consulaire la plus importante en Suisse.

2. Le destinataire doit certifier, sur une formule spéciale, que le véhicule est sa propriété et s'engager à ne pas le remettre à des tiers en propriété ou en gage, à n'en pas céder l'usage, à titre gratuit ou onéreux, dans le territoire douanier suisse, sans auparavant demander l'autorisation de l'administration des douanes, acquitter les droits et autres redevances dus et observer toutes les prescriptions relatives à l'importation des marchandises.

3. Les actes d'engagement concernant les véhicules à moteur importés aux termes des articles 23 à 27 doivent être visés par le chef de mission.

S'il n'y a pas de mission diplomatique à Berne, les actes d'engagement seront visés par le chef de poste de carrière de la représentation consulaire la plus importante en Suisse.

4. Les véhicules à moteur admis en franchise en vertu des articles 23, 24 et 26 peuvent, d'entente avec la direction générale des douanes, être cédés sans paiement des droits de douane, avant l'expiration du délai de trois ou de cinq ans, à un autre bénéficiaire en droit de revendiquer, aux termes du présent règlement, l'exonération douanière de véhicules à moteur, à condition que l'acquéreur endosse, par écrit, les obligations du cédant. L'acquéreur bénéficie de la fraction du délai de trois ou de cinq ans écoulée au moment de la transaction.

5. La réexportation définitive, l'acquiescement ou la cession, conformément au chiffre 4 ci-dessus, d'un véhicule à moteur importé sur la base des articles 23 et 24, avant l'expiration du délai de trois ou de cinq ans à compter de l'admission en franchise, donne droit immédiatement à l'exonération douanière d'un nouveau véhicule, aux conditions établies par ce règlement.

6. En cas de transfert du bénéficiaire à l'étranger, les véhicules à moteur dont l'admission en franchise sur la base des articles 24 et 26 remonte à moins de trois ans, peuvent être vendus en Suisse moyennant paiement des droits de douane et autres redevances réduits suivants:

Automobiles et motocyclettes

Autres véhicules

Avant l'expiration d'un délai de:

1 an = 75 pour 100
2 ans = 50 pour 100
3 ans = 25 pour 100

1 an = 100 pour 100
2 ans = 70 pour 100
3 ans = 50 pour 100
4 ans = 35 pour 100
5 ans = 25 pour 100

Dans ce but, une demande motivée doit être adressée par la mission diplomatique à la direction générale des douanes.

7. Lorsque le propriétaire d'un véhicule à moteur importé en franchise sur la base des articles 24 et 26 du présent règlement cesse, pour une raison quelconque, de bénéficier des facilités prévues tout en maintenant son domicile légal en Suisse, ce véhicule est soumis au paiement des droits de douane et des autres redevances. Afin de tenir compte du laps de temps écoulé depuis l'importation, les réductions prévues au chiffre 6 ci-dessus pourront être accordées.

La notion du domicile est définie par l'article 23 du Code civil suisse.

Article 29. Cession de véhicules à moteur endommagés.

Lorsqu'un véhicule à moteur importé en franchise conformément aux articles 23 à 27 a été fortuitement détruit ou endommagé, la cession du véhicule ou de pièces détachées a lieu contre acquittement des droits de douane fixés, dans chaque cas, par la direction générale des douanes.

CHAPITRE VIII. — ESSENCE FRANCHE DE DROITS DE DOUANE

Article 30. Généralités.

1. Les missions diplomatiques et les membres du corps diplomatique à Berne peuvent acheter, pour les voitures de service et les véhicules privés, de l'essence franche de droits de douane sur la base de cartes de légitimation spéciales, auprès des détenteurs de colonnes de distribution désignés par la direction générale des douanes.

2. Les cartes de légitimation pour l'obtention d'essence franche de droits de douane doivent être demandées, par la mission diplomatique à Berne, à la direction générale des douanes.

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CHAPITRE IX. — CORRESPONDANCE OFFICIELLE EXPÉDIÉE PAR VALISES SCÉLÉES (COURRIER DIPLOMATIQUE)

Article 32. Missions diplomatiques à Berne.

Les missions diplomatiques accréditées à Berne ont le droit d'expédier et de recevoir, dans des valises scellées, de la correspondance officielle, des dossiers et des documents de service.

Cette facilité est limitée aux envois adressés à ou provenant:

- a) Du ministère des affaires étrangères ou un office équivalent du gouvernement représenté;
- b) D'une mission diplomatique de même nationalité accréditée à l'étranger.

Le courrier diplomatique ne doit contenir que de la correspondance officielle, des dossiers et des documents de service, à l'exclusion de toute marchandise.

Article 34. Pour les représentations consulaires étrangères en Suisse.

1. Les représentations consulaires n'ont pas le droit de recevoir ou d'expédier des valises scellées, au même titre que les missions diplomatiques. Les envois de ce genre doivent être déclarés à l'importation ou l'exportation, par écrit, conformément aux prescriptions générales de la législation douanière. L'administration des douanes se réserve le droit de vérifier de tels envois.

2. Si un pays n'a pas de représentation diplomatique en Suisse, la direction générale des douanes peut, sur demande et d'entente avec le département politique fédéral, mettre sa représentation consulaire au bénéfice de facilités.

F. DISPOSITIONS GÉNÉRALES ET FINALES

CHAPITRE X. — DISPOSITIONS GÉNÉRALES

Article 35. Interdictions et restrictions d'importation et d'exportation.

Les marchandises importées en franchise sur la base du présent règlement ne sont pas soumises aux interdictions ou restrictions d'importation et d'exportation de nature économique ou financière. Les autres dispositions de la législation fédérale, spécialement les mesures touchant la santé publique, les épizooties et la protection de l'agriculture demeurent réservées.

Article 36. Dédouanement subséquent.

Toutes les prescriptions relatives à l'importation des marchandises sont applicables lors du paiement subséquent des droits de douane sur les objets admis en franchise en vertu du présent règlement.

Article 37. Remboursement des droits.

Les droits de douane ne sont pas remboursés sur les objets et marchandises de tout genre ayant fait l'objet d'un dédouanement définitif, même si, aux termes du présent règlement, leur admission en franchise était prévue.

Article 38. Réciprocité.

Les facilités prévues par le présent règlement ne sont applicables qu'aux représentations et aux représentants diplomatiques et consulaires des États usant de réciprocité à l'égard de la Suisse.

Article 39. Garantie.

Dans les cas où le présent règlement prévoit le dédouanement en franchise temporaire, sous le couvert d'un passavant d'importation, l'administration des douanes suisses peut renoncer au dépôt ou à la garantie des droits prévus par la loi sur les douanes.

Article 40. Personnel de nationalité suisse.

Le présent règlement ne s'applique pas aux personnes de nationalité suisse; ces dernières sont soumises aux dispositions douanières générales.

Article 41. Compétence.

Il appartient à la direction générale des douanes d'examiner les demandes d'exonération ou de facilités présentées par les missions diplomatiques et les représentations consulaires, de même que par les membres du corps diplo-

matique à Berne et les membres du corps consulaire en Suisse. Au besoin, elle traite directement avec les missions diplomatiques, les représentations consulaires et les autres requérants.

Le département politique fédéral et la direction générale des douanes restent en étroit contact en vue d'assurer une application correcte des présentes prescriptions.

Article 42. Pièces de légitimation.

1. Membres du corps diplomatique à Berne.

Les autorités douanières ne reconnaissent comme pièces de légitimation que les cartes suivantes, délivrées par le département politique fédéral, mentionnant la fonction remplie par le titulaire:

a) Cartes roses avec liséré rouge foncé:

Chefs de missions diplomatiques étrangères accrédités en Suisse (nonce apostolique, ambassadeurs, envoyés extraordinaires et ministres plénipotentiaires, chargés d'affaires).

b) Cartes roses:

Collaborateurs diplomatiques des chefs de missions étrangères en Suisse (conseillers, auditeurs, secrétaires et attachés).

Chefs de chancellerie.

Remarque. — Les chefs de chancellerie de missions diplomatiques, détenteurs de la carte rose, n'ont pas droit aux privilèges douaniers mentionnés aux articles 7 à 9. Ils sont soumis aux dispositions générales de la loi sur les douanes (voir articles 20, 21 et 27).

c) Cartes bleues:

Fonctionnaires techniques et auxiliaires des représentations diplomatiques étrangères en Suisse, ainsi que les domestiques personnels des chefs de missions étrangers en Suisse.

2. Membres du corps consulaire étranger en Suisse.

Les membres du corps consulaire étranger en Suisse sont au bénéfice de cartes de légitimation établies par les autorités cantonales compétentes. Ces cartes renseignent sur la fonction remplie par son titulaire.

Article 43. Dispositions générales de la législation douanière.

Les dispositions générales de la législation douanière sont applicables lorsque le présent règlement ne prévoit pas de dérogation.

Thailand

(a) NOTE OF 29 NOVEMBER 1955 RECEIVED FROM THE ACTING MINISTER OF FOREIGN AFFAIRS OF THAILAND

Diplomatic and consular persons are accorded such privileges and immunities as are generally recognized by the rules of international law. Chiefs of diplomatic missions and members of their families living with them are exempt from civil and criminal jurisdiction, including evidence. Diplomatic immunity is equally extended to the foreign official personnel of diplomatic Missions. Thai nationals in the personal service of the chiefs of diplomatic missions are subject to local jurisdiction. No definite statement can be made as to such servants of alien nationality and should a case arise involving such a servant the principles generally accepted by international law will be applied.

Turquie ¹

a) LOI N° 5237 DU 1^{er} JUILLET 1948 PORTANT SUR LES RECETTES MUNICIPALES ²

SECTION VIII. — DISPOSITIONS DIVERSES

Article 50. Les ambassades et consulats des États étrangers et les ambassadeurs, chargés d'affaires et consuls (à l'exception des consuls honoraires) et les fonctionnaires des ambassades et consulats possédant la nationalité de ces États sont exemptés, sous condition de réciprocité, du paiement des impôts, taxes et parts des municipalités mentionnés aux articles 5, 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 25, 34, 35 et 36 ³ de la présente loi et au paragraphe 18 ⁴ de l'article premier de la loi n° 5116.

b) LOI N° 5887 DU 25 FÉVRIER 1952 PORTANT SUR LES FRAIS DE JUSTICE

Article 107⁵. Les ambassadeurs, chargés d'affaires et consuls des États étrangers se trouvant en Turquie, de même que les agents diplomatiques et consulaires possédant la nationalité de ces États et exerçant une fonction officielle en Turquie seront exemptés, sous réserve de réciprocité, des frais de justice mentionnés dans la présente loi pour toutes les transactions effectuées *ès qualités*.

c) LOI DOUANIÈRE N° 5383 DU 2 MAI 1949 ⁶

IMMUNITÉS DIPLOMATIQUES

Article 18. Les objets énumérés ci-dessous sont exempts de droits de douane à condition de réciprocité:

1. Les objets que les chefs d'État étrangers et leur famille ainsi que les fonctionnaires qui leur sont attachés importent avec eux ou ceux qu'ils feront venir durant leur séjour en Turquie;

¹ Le texte des lois ainsi que les renseignements reproduits ci-après ont été fournis par le représentant permanent de la Turquie auprès de l'Organisation des Nations Unies.

² Le texte de cette loi a été fourni en langue turque. Sa traduction a été effectuée par le Secrétariat de l'Organisation des Nations Unies.

³ Les impôts, taxes et parts des municipalités prévus à ces articles sont respectivement: part attribuée à la municipalité sur le produit de l'impôt sur les prestations; taxe de voirie et d'éclairage; participation aux dépenses faites pour les routes, égouts et canalisations d'eau; participation aux dépenses effectuées au titre des plans d'aménagement et de travaux cadastraux; participation des compagnies d'assurance aux dépenses destinées à la protection contre l'incendie; taxe sur la plus-value; taxe d'immatriculation des moyens de transport; taxe sur les moyens de transport terrestres; moyens de transport maritimes; taxe de transit sur les quais et débarcadères; taxe sur les enseignes et réclames; taxe de courtage; taxe sur les chiens d'agrément; taxe sur les marquises, auvents et avant-toits; taxe sur le nettoyage par des moyens techniques.

⁴ Participation au produit de la majoration du taux de l'impôt sur les prestations perçu dans les communes municipales.

⁵ Le texte de cet article a été fourni en langue turque. Sa traduction a été effectuée par le Secrétariat de l'Organisation des Nations Unies.

⁶ Le texte de cette loi a été fourni en français.

2. Les effets personnels des ministres des États étrangers résidant en Turquie et de leurs familles importés avec eux ou ceux qu'ils feront venir durant leur séjour en Turquie, ainsi que les matériaux de construction destinés à leur mission;

3. Les effets des diplomates ainsi que des délégués et des membres des missions militaires venant dans le pays en visite officielle ou pour service. Ces objets sont établis par le Ministère des douanes et des monopoles et par le Ministère des affaires étrangères;

4. a) Les drapeaux, les armoires, les papiers imprimés, les papiers avec entêtes, les passeports, les certificats, les timbres, les cachets officiels et les sceaux ordinaires ainsi que les objets similaires appartenant aux consulats étrangers en Turquie;

b) Les effets personnels usagés et non usagés et le mobilier usagé arrivant en même temps que les consuls généraux, les consuls et les vice-consuls et les fonctionnaires de consulat de carrière ou ceux qu'ils feront venir deux mois au plus tard avant leur arrivée ainsi que ceux qui arriveront six mois au plus tard après leur arrivée;

5. Les voitures automobiles personnelles et les véhicules de service des personnes énumérées aux paragraphes 1, 2 et 3 ainsi qu'une voiture automobile que chacun des consuls généraux, consuls et vice-consuls de carrière importeront dans les délais plus haut indiqués.

Au cas où les automobiles importées en franchise suivant les dispositions de cet article seraient vendues ou cédées à des personnes ne jouissant pas de la franchise, une réduction de 50 pour 100 de l'impôt de douane est accordée si la vente ou la cessation a lieu durant la seconde année de son entrée et une réduction de 75 pour 100 au cas où elle a lieu durant la troisième année.

L'impôt de douane n'est pas exigé des voitures automobiles usagées et sérieusement détériorées ainsi que de celles vendues ou cédées trois années après leur entrée.

d) EXEMPTIONS RECONNUES PAR LE GOUVERNEMENT TURC ¹

1. Impôt sur les bâtiments des ambassades et consulats qui sont la propriété de l'État et qui sont affectés à l'exercice des fonctions diplomatiques et consulaires.
2. Impôt sur les successions et les mutations des agents diplomatiques et des membres de leurs familles.
3. Impôt sur le revenu des fonctionnaires et des employés des ambassades et consulats.
4. Droit de timbre sur les notes des ambassades et consulats, leurs documents officiels, leurs actes et les documents officiels qu'ils échangent exclusivement entre eux.
5. Droit sur la cession des bâtiments des ambassades et consulats.
6. Impôt sur la consommation et impôt sur les transactions, dans le cas des biens jouissant de l'exemption des droits de douane.
7. Impôt des prestations, pour les agents diplomatiques et consulaires et leurs subordonnés de même nationalité.

¹ Le texte de ces renseignements a été fourni en langue turque. Sa traduction a été effectuée par le Secrétariat de l'Organisation des Nations Unies.

8. Droits de douane afférents aux objets utilisés dans les ambassades.
9. Droits de douane afférents aux objets destinés au service des consulats, tels que: écussons, papiers timbrés officiels et les fournitures de bureau.
10. Droits de douane afférents aux biens personnels accompagnant les agents diplomatiques et consulaires.
11. Droits de douane afférents aux objets personnels que les agents diplomatiques et consulaires font venir dans le pays dans un délai de six mois à dater de la prise de possession de leur emploi.
12. Droits de douane afférents à tous les objets que les chefs des missions diplomatiques peuvent faire venir à tout moment pour leur usage particulier.
13. Impôt municipal des agents diplomatiques et consulaires.
14. Droit de licence afférent aux postes radioélectriques récepteurs des agents diplomatiques et consulaires.
15. Droit de douane sur la vente des automobiles utilisées par les agents diplomatiques.

Ukrainian Soviet Socialist Republic ¹

(a) THE ADMINISTRATIVE CODE

Article 84. Organs of the police and the criminal investigation department shall not be entitled to detain diplomatic representatives, their spouses and minor children, diplomatic couriers or the consular representatives of foreign States.

(b) NOTE TO ARTICLE 91 OF THE ADMINISTRATIVE CODE

The premises occupied by the diplomatic representatives of foreign States and the premises in which diplomatic representatives and their families live shall, by virtue of their extritoriality, be inviolable. The circumstances in which such premises may be searched and articles confiscated therefrom and the procedure to be followed are laid down in article 4 of the Regulations concerning the diplomatic and consular representatives of foreign States on territory of the USSR.

(c) PENAL CODE

Article 2. The provisions of this Code shall apply to crimes committed within the Ukrainian SSR by citizens of the Ukrainian SSR and of the other Union Republics and by aliens, provided that the latter do not enjoy extritorial privileges.

NOTE: The question of the criminal liability of foreign citizens enjoying extritorial privileges shall be decided through diplomatic channels.

(d) CODE OF CRIMINAL PROCEDURE

Article 176. The premises occupied by diplomatic representatives and the premises in which diplomatic representatives, members of diplomatic

¹ The text of enactments reproduced under the Ukrainian Soviet Socialist Republic have been provided by the Minister of Foreign Affairs of the Ukrainian Soviet Socialist Republic. Translation by the Secretariat of the United Nations.

missions and their families live may be searched and seizures effected therein only at the request or with the consent of the diplomatic representative; a public prosecutor and a representative of the Peoples' Commissariat of Foreign Affairs, ¹ if there is such a person in the place concerned, must be present during the search or seizure.

NOTE: In his letter of 10 May 1956, the Minister of Foreign Affairs of the Ukrainian Soviet Socialist Republic stated that "in accordance with article 19 of the Constitution of the USSR and article 16 of the Constitution of Ukrainian SSR, All-Union Laws (Laws of the USSR) on diplomatic and consular immunities are binding within the Territory of the Ukrainian SSR". These laws, the list of which was annexed to the said letter, are reproduced *infra* under the Union of Soviet Socialist Republics (a), (b), (e), (f), (g), (h), (i), (j).

Union of South Africa ²

(a) DIPLOMATIC PRIVILEGES ACT NO. 71 OF 1951

1. In this Act, unless inconsistent with the context:

(i) "Diplomatic agent" means the public representative of any other head of state or government duly accredited to the Union as an ambassador, high commissioner, envoy extraordinary and minister plenipotentiary, a minister resident or a chargé d'affaires; (i)

(ii) "Family" means the wife or husband, as the case may be, the minor children, and any other relative approved by the Minister for the purposes of this Act, of any person mentioned in sub-section (1) of section *two*, or of a member of the staff of any such person; (ii)

(iii) "Local authority" means any such institution or body as is contemplated by paragraph (vi) of section *eighty-five* of the South Africa Act, 1909; (vi)

(iv) "Minister" means the Minister of External Affairs; (iv)

(v) "Person" includes any public international organization or public international institution of which the Union is a member, and such an organization or institution shall, to the extent consistent with the instrument creating it, be vested in the Union with the legal capacities of a body corporate; (v)

(vi) "Staff" means counsellors, secretaries, attachés, advisers, chancellors, archivists, stenographers, typists and other persons approved by the Minister, who take part in the diplomatic work of a diplomatic mission, provided the aforementioned persons are employed exclusively for the purposes of the mission; (vii)

(vii) "Suite" in relation to any Head of State, diplomatic agent or other representative of or visitor from another sovereign or state means his family, the members of his staff and their families. (iii)

2. (1) Save as provided in section *three*, the following persons shall be immune from the civil and criminal jurisdiction of the courts of the Union:

(a) Heads of State;

¹ Now called the Ministry of Foreign Affairs.

² The texts of Acts reproduced under this State have been provided by the Deputy Permanent Representative of the Union of South Africa to the United Nations.

(b) Diplomatic agents;

(c) Any special envoy from another state, subject to the terms of any agreement governing the mission of such envoy;

(d) Any public international organization or public international institution of which the Union is a member, the members, agents or officers of and the delegates to such organizations or institutions, and the permanent representatives of other Governments to such organizations or institutions, together with their wives and minor children, to the extent prescribed in any Convention or Agreement to which the Union Government is a party;

(e) Representatives of any government attending any international conference, to the extent prescribed in any Convention or Agreement to which the Union Government is a party;

Any other person who is recognized by the Minister as being entitled to diplomatic immunity, in accordance with the recognized principles of international law and practice, including in particular persons falling under the category of diplomatic agents who are the representatives of a sovereign or state with whom or which the Union is at peace and who are accredited to another Government, and persons falling under the categories set out in paragraphs (d) and (e), while such diplomatic agents or persons are travelling to or from the country where their official duties are to be carried out or have been carried out, and all legal process sued out against the persons or property of such persons shall be void.

(2) The immunity attaching to any person mentioned in sub-section (1) shall extend also to his suite.

3. (1) The provisions of section *two* shall not apply to any person mentioned therein in connection with any liability incurred by him for any tax on the incomes of persons levied by the state or any provincial administration or in connection with any transaction entered into by him in his private and personal capacity, for purposes of trade or in the exercise of any profession or calling.

(2) The provisions of section *two* shall not be construed so as to prohibit the waiver by:

(a) Any person mentioned in paragraph (a), (b), (c), (e) or (f) of sub-section (1) of the said section of the immunity secured to himself or to any member of his suite; or

(b) Any organization or institution mentioned in paragraph (d) of sub-section (1) of the said section of the immunity secured to such organization or institution or to any member, agent or officer of such organization or institution or to any member of the suite of any such member, agent or officer; or

(c) Any other Government of the immunity secured to a permanent representative mentioned in the said paragraph (d) or to any member of the suite of any such representative.

(3) The Governor-General may withdraw the immunities granted by section *two* to any person, where the Government of such person fails to accord corresponding immunities to Union representatives or South African Citizens.

4. (1) The Minister shall cause a register to be kept in which there shall be registered the names of all persons entitled to immunity under section

two and every such registration shall be cancelled upon the person concerned ceasing to be so entitled.

(2) The Minister shall cause every registration or cancellation made under sub-section (1) to be published in the *Gazette*.

(3) At least once in each calendar year, the Minister shall cause to be published in the *Gazette*, a complete list of all persons on the register.

(4) A notice published in terms of this section or a certificate under the hand of the Secretary for External Affairs stating that any person mentioned in such certificate is covered by the provisions of any particular paragraph of sub-section (1) of section *two* specified in such certificate, and accordingly recognized by the Government of the Union to be entitled to diplomatic immunity, or stating that the immunity previously attaching to any such person as aforesaid no longer subsists, or has been cancelled or withdrawn from any particular date, shall be conclusive proof of the facts or conclusions stated therein in any court of law.

5. (1) Subject to the provisions of sub-section (3), the Governor-General may exempt persons entitled to immunity under section *two* from taxes, duties, fees, rates or other charges levied by the State, a provincial administration, a local authority or a statutory public utility corporation upon:

- (i) The person concerned; or
- (ii) Any movable property of such person; or
- (iii) So much of the income of the person concerned as is derived directly from the holding of his office: Provided that any exemption granted to any person in terms of this sub-section shall not be construed as exempting such person from the necessity of complying with any formalities in respect of the importation of goods which are prescribed in any law relating to customs.

(2) If a motor vehicle which has been imported or taken out of bond without payment of customs duty under sub-section (1) is sold or disposed of within two years of importation to a person not entitled to customs franchise privileges, the person who sells or disposes of the vehicle may be called upon to pay duty thereon at the rate required according to the law relating to the payment of customs duty.

(3) The Governor-General shall only grant exemption in terms of sub-section (1) to:

(a) Any person mentioned in paragraph (a), (b) or (c) of sub-section (1) of section *two*, or to the members of the suite of any such person, if he is satisfied that reciprocal treatment is or would be accorded to Union representatives or South African citizens corresponding in rank or position to the person concerned by the Government of that person;

(b) Any organization or institution mentioned in paragraph (d) of sub-section (1) of section *two* or any member, agent or officer of such organization or institution, or any representative of any other Government to such organization or institution, or to the wives or minor children of the foregoing persons, to an extent not greater than that prescribed in any Convention or Agreement to which the Union Government is a party.

(4) A certificate under the hand of the Secretary for External Affairs stating that the Governor-General has granted any exemption in terms of sub-section (1) or (2) or of sub-section (1) of section *six* shall be conclusive proof thereof in any court of law.

6. (1) The Governor-General may, subject to the provisions of sub-section (2), exempt any Government or international organization or institution from the payment of transfer duty or any other duties, fees, charges or other taxes payable to the Government of the Union or any provincial administration or local authority in connection with the transfer of any immovable property acquired by that Government or organization or institution for official purposes in the Union, as well as from the payment of rates, taxes, fees or other charges levied on or in connection with such property.

(2) The Governor-General shall only grant exemption in terms of sub-section (1) to a Government if he is satisfied that reciprocal treatment is or would be accorded to the Government of the Union by such Government.

7. The loss of revenue caused to any local authority or statutory public utility corporation by reason of the provisions of sections *five* and *six* shall be made good to the local authority or statutory public utility corporation concerned, as the case may be, out of moneys provided by Parliament for that purpose.

8. The Governor-General may by notice in the *Gazette* recognize any building or premises occupied by a diplomatic agent for the purpose of a chancery or an official residence as an Embassy or Legation or a High Commissioner's Office or residence.

9. No law or condition in a title deed which prohibits the acquisition or occupation of immovable property by persons belonging to any particular racial group shall be construed to prohibit:

(a) The acquisition, in the name of his Government, of any immovable property by any diplomatic agent or political, career consular or trade representative; or

(b) The occupation of immovable property by any person referred to in section *two*, or by the political, career consular or trade representative of another Government, and the family, staff and alien servants of such representative:

Provided such immovable property is acquired or occupied exclusively for the purposes of the chancery or residence of the person concerned.

10. (1) The immunities, privileges and exemptions provided for in this Act shall not apply to or be extended to South African citizens: Provided that, if the Government of the Union has by agreement with an organization or institution referred to in paragraph (d) of sub-section (1) of section *two* undertaken to extend any immunities, privileges or exemptions to South African citizens who are representatives of another Government or such organization or institution, or who are members, agents or officers of such organization or institution, the said immunities, privileges and exemptions shall apply also to such South African citizens.

(2) Notwithstanding anything to the contrary contained in the South Africa Defence Act, 1912 (Act No. 13 of 1912), any officer, agent or representative of a public international organization or institution referred to in paragraph (d) of sub-section (1) of section *two* shall be exempt from service under the said Act as a citizen of the Union.

11. (1) Any person who wilfully or without the exercise of reasonable care sues out, obtains or executes any legal process against a person who is entitled to immunity under section *two*, and whose name has been published in terms of sub-section (2) of section *four*, whether as party, as attorney or as

an officer concerned in issuing or executing such process, shall be guilty of an offence.

(2) Any person who contravenes sub-section (1) or any person who wilfully or without the exercise of reasonable care, commits any other offence which has the effect of infringing the inviolability of a person entitled to immunity under section *two* or of his property or the premises occupied by him, shall be liable on conviction to a fine not exceeding five hundred pounds or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

(b) CUSTOMS ACT, 1955

FIRST SCHEDULE

CUSTOMS TARIFF¹

Tariff item	Article	Mini- mum duty	Inter- mediate duty	Maxi- mum duty
129	Motor cars, excluding radio apparatus:			
	(a) Of a free-on-board value not exceeding £ 600, but excluding rubber pneumatic tyre covers and tubes for the running wheels	per 100 lb.	3 13 0	3 13 0
			(to be calculated to the nearest 25 lb.)	
			and in addition	
	Tyres, rubber pneumatic tyre covers and tubes in excess of one each per running wheel	per lb.	0 0 7	0 0 9
	(b) Of a free-on-board value exceeding £ 600 but not exceeding £ 800, but excluding rubber pneumatic tyre covers and tubes	<i>ad valorem</i>	25%	25%
			and in addition	
		per lb.	0 0 6	0 0 6

¹ In his Note of 29 December 1955, the Deputy Permanent Representative of the Union of South Africa to the United Nations pointed out that:

“This Act [The Diplomatic Privileges Act No. 71 of 1951, reproduced above] does not include customs privileges which are provided for under Items 129 and 317 of the South African customs tariff. It will be noted that Item 317 relates to all goods imported into South Africa by diplomatic and consular representatives and trade Commissioners. Item 129 refers specifically to motor vehicles imported by persons included in these categories, who import vehicles duty-free and then sell them in the Union to third parties who are not entitled to these privileges. In such cases the seller is required to pay the customs dues, from which he was previously exempted, according to the scale laid down in this item. In each case the percentage values are percentages of the selling price of the car and not of the original purchase price. As vehicles sold in these circumstances are invariably regarded as second-hand, only section (d) of the item applies in practice. No duty, it should be noted, is payable if the vehicle is sold after it has been in use in the Union for more than two years.”

Tariff item	Article	Minimum duty	Intermediate duty	Maximum duty
129	—Continued			
	(c) Of a free-on-board value exceeding £ 800, but excluding rubber pneumatic tyre covers and tubes	<i>ad valorem</i>	30%	30%
			and in addition	
	per lb.	0 0 6	0 0 6	0 0 6
	(d) Second-hand or used —			
	(i) The personal property of an individual, brought into the Union by him for his own use and not for sale	<i>ad valorem</i>	20%	20%
			with a maximum of	
	In respect of each car not exceeding £ 600 in value —			
	In use for less than 1 month ...	per 100 lb.	1 3 0	1 3 0
	In use for 1 month or more but less than 6 months	per 100 lb.	1 0 0	1 0 0
	In use for 6 months or more but less than 12 months	per 100 lb.	0 18 0	0 18 0
	In use for 12 months or more	per 100 lb.	0 16 0	0 16 0
	<i>Note:</i> Duty in each case to be calculated to the nearest 25 lb.			
	(ii) Other, of a free-on-board value not exceeding £ 150	per car	30 0 0	30 0 0
317	(1) Articles imported or taken out of bond for the personal or official use of the Governor-General and his family	—	Free	Free
	(2) Articles imported or taken out of bond for the personal or official use of:			
	(a) Diplomatic Agents accredited to the Union and their families and the staff of the said agents and their families, provided they are citizens of the country represented	—	Free	Free
	(b) The High Commissioner for Basutoland, Bechuanaland Protectorate and Swaziland and members of his staff	—	Free	Free
	(c) The Resident Commissioners for Basutoland, Bechuanaland Protectorate and Swaziland	—	Free	Free
	(3) Articles ¹ imported or taken out of bond for the personal or official use of Career Consular Representatives, Career Trade Commissioners and Career Press and Information Officers in the			

¹ Amended by the Customs Amendment Act, 1956.

Tariff item	Article	Mini- mum duty	Inter- mediate duty	Maxi- mum duty	
317 —Continued					
	Union, provided they are citizens of the country they represent ..	—	Free	Free	Free
	(4) Consular stationery and uniforms and appointments for the official use of Consular Officers or Trade Commissioners other than those falling under paragraph (3)	—	Free	Free	Free
	(5) Articles (not being food or drink or tobacco in any form) imported by persons other than those mentioned in paragraphs (2) and (3), on their first entry on appointment by their government as office assistants to or engagement as household personnel by the persons mentioned in the said paragraphs and intended for their own use, provided that the said articles are imported within three months of the date of arrival of the said persons within the Union, and provided further, the said persons are citizens of the country to whose mission they are attached and are not normally resident in the Union	—	Free	Free	Free
	<i>Note:</i>				
	(1) The provisions of sub-paragraph (a) or (b) of paragraph (2) and paragraphs (3), (4) or (5) of the above-mentioned item shall:				
	(i) Be conditional on the grant of similar privileges by any country to representatives of the Union who may hold corresponding positions in any such country to their families and their staffs, office assistants and household personnel (being South African citizens), as the case may be;				
	(ii) Not apply in respect of any articles in the event of such articles being sold or otherwise disposed of in the Union within a period of two years after the date of due entry of the articles for home consumption unless the Minister otherwise determines.				
	(2) For the purpose of this item "family" shall mean the wife or husband, as the case may				

<i>Tariff item</i>	<i>Article</i>	<i>Mini- mum duty</i>	<i>Inter- mediate duty</i>	<i>Maxi- mum duty</i>
317 —Continued				
	be, and the dependent children of the person mentioned therein.			
	(3) For the purpose of subparagraphs (a) and (b) of paragraph (2), "staff" shall mean counsellors, secretaries, attachés and such other persons who enjoy diplomatic status.			
	(4) For the purpose of subparagraph (a) of paragraph (2) "Diplomatic Agents" shall mean the public representative of any other head of State or Government duly accredited to the Union as an Ambassador, High Commissioner, Envoy Extraordinary and Minister Plenipotentiary, a Minister Resident or Chargé d'Affaires.			

Union of Soviet Socialist Republics ¹

- (a) REGULATIONS CONCERNING THE DIPLOMATIC AND CONSULAR MISSIONS OF FOREIGN STATES IN THE TERRITORY OF THE UNION OF SOVIET SOCIALIST REPUBLICS (ORDER OF 14 JANUARY 1927 OF THE CENTRAL EXECUTIVE COMMITTEE AND THE COUNCIL OF PEOPLE'S COMMISSARS OF THE USSR) ²

I. DIPLOMATIC MISSIONS OF FOREIGN STATES

1. The diplomatic representatives of foreign States in the territory of the Union of Soviet Socialist Republics shall be the representatives of the said States accredited to the Central Executive Committee of the USSR or to the People's Commissariat of Foreign Affairs.

2. Diplomatic representatives and members of the diplomatic missions of foreign States, i.e., counsellors (including commercial counsellors), first, second and third secretaries and attachés (including commercial, financial, military and naval attachés), shall enjoy, subject to reciprocity, all the rights and privileges attaching to their status under the rules of international law.

In particular, diplomatic representatives and members of the said diplomatic missions:

¹ The texts of Laws and Regulations reproduced under the Union of Soviet Socialist Republics have been provided by the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations. Translation by the Secretariat of the United Nations.

² These Regulations as well as the following enactments (b), (e), (f), (g), (h), (i) and (j) also have effect in the territory of the Byelorussian SSR (see *supra*, Byelorussian SSR (b), Note), and in the territory of Ukrainian SSR (see *supra*, Ukrainian SSR, (d), Note).

(a) Shall enjoy inviolability as to their person, and shall accordingly be immune from arrest or detention by the administrative or judicial authorities;

(b) Shall be immune from the criminal jurisdiction of the judicial institutions of the USSR and the Union Republics, save where such jurisdiction is accepted by the Government of the foreign State concerned, and shall be subject to the civil jurisdiction of the judicial institutions of the USSR and the Union Republics only within the limits defined by the rules of international law or by agreements with the States concerned; likewise, they shall not be bound to give evidence in judicial proceedings, and where it is agreed that they shall give evidence, they shall not be bound to appear in court for the purpose;

(c) Shall be exempt from all direct State and local taxes and from any personal dues in kind or in cash;

(d) Shall be entitled to receive from abroad and to send abroad free of duty and without any restriction printed matter intended for their personal use.

NOTE 1. The People's Commissariat of Foreign Affairs may extend the rights and privileges provided by this article to diplomatic representatives and members of the diplomatic missions of foreign States accredited to the Governments of third States who are temporarily in the territory of the USSR.

NOTE 2. The rights and privileges provided by this article shall be extended to the spouses and minor children of the persons therein enumerated.

3. The diplomatic representatives of foreign States may freely communicate with their Governments and with diplomatic representatives of their country in third States by means of plain-language and coded telegrams and by diplomatic and ordinary post, and may likewise freely communicate with consular representatives of their country in the territory of the USSR by post and by means of plain-language and coded telegrams.

4. Premises occupied by diplomatic missions and premises in which the persons referred to in article 2 and their families reside shall be inviolable. No search or seizure may be carried out on the said premises except at the request or with the consent of the diplomatic representative and in the presence of a representative of the Procurator's Department and a representative of the People's Commissariat of Foreign Affairs if there is such a representative in the locality. Such premises may not be sealed. Access to them otherwise than with the consent of the diplomatic representative shall be prohibited. The inviolability of the said premises shall not, however, confer a right to detain any person whatsoever therein by compulsion or to grant asylum therein to any person a warrant for whose arrest has been issued by a competent organ of the USSR or the Union Republics.

5. The persons referred to in article 2 and the notes thereto shall hold appropriate documents of identification furnished by the People's Commissariat of Foreign Affairs.

6. The persons referred to in article 2 shall, on leaving the territory of the USSR, continue to enjoy all the rights and privileges attaching to their status up to the moment of leaving the confines of the USSR.

7. The scope of and procedure for the exemption from customs and excise duties of freight and baggage accompanying or consigned to diplomatic representatives and members of the diplomatic missions of foreign States shall be defined in special instructions issued by the People's Commissariat of Foreign Affairs in agreement with the People's Commissariat of External and Internal Trade of the USSR and the People's Commissariat of Finance of the USSR.

The carriage of such freight and baggage shall be effected as provided by article 242 of the Customs Regulations of the USSR (Collected Laws of the USSR, 1926, No. 25, article 159).¹

8. Diplomatic couriers carrying diplomatic mail addressed to diplomatic missions of foreign States in the Territory of the USSR or diplomatic mail addressed by such missions to the Ministry of Foreign Affairs of the State concerned or to diplomatic missions of their own State in third countries, and diplomatic couriers of foreign States maintaining diplomatic relations with the USSR who are carrying diplomatic mail in transit through the territory of the USSR shall enjoy inviolability as to their person. They shall be immune from arrest or detention by the administrative or judicial authorities.

Similarly, diplomatic mail carried by the said couriers may in no circumstances be opened or detained.

The competent organs of the USSR and the Union Republics shall be bound to render such couriers every assistance with a view to ensuring their free movement and the protection of the diplomatic mail which they carry.

The privileges enumerated above shall be extended to diplomatic couriers only subject to reciprocity. Rules concerning the movement of diplomatic couriers of foreign States and diplomatic mail carried by them, the weight of such mail and the necessary customs and other formalities relating to the carriage thereof shall be prescribed in instructions issued by the People's Commissariat of Foreign Affairs in agreement with the People's Commissariat of External and Internal Trade of the USSR and the People's Commissariat of Finance of the USSR.

II. CONSULAR MISSIONS OF FOREIGN STATES

9. The consular representatives of foreign States in the territory of the USSR shall be the persons appointed by the Governments concerned as consuls-general, consuls, vice-consuls and consular agents and accepted as such by the Government of the USSR through the People's Commissariat of Foreign Affairs.

The consular representative of a foreign State must be a citizen of the State which he represents.

NOTE: The acceptance of any individual as a consular representative shall be decided upon with the agreement of the Government of the Union Republic concerned.

10. A consular representative shall furnish proof of his appointment by presenting his consular commission to the People's Commissariat of Foreign Affairs. Permission to perform consular functions shall be granted to him by the People's Commissariat of Foreign Affairs by means of the issue of a

¹ The present equivalent of article 242 of the Customs Regulations is article 151 of the Customs Code of the USSR, 1928.

consular exequatur. Such consular exequatur shall specify the consular district of the consular representative concerned.

11. The consular representatives of foreign States shall enjoy, subject to reciprocity, the rights and privileges attaching to their status under the rules of international law.

In particular, consular representatives:

(a) Shall be exempt from all direct State and local taxes and from any personal dues in kind or in cash other than taxes and duties on buildings, land and other property not intended for their personal use and taxes relating to the operation of industrial and commercial undertakings, or to interests therein, or to individual gainful activities;

(b) Shall have the right to communicate freely with the diplomatic representative of their State in the territory of the USSR by post or by means of plain-language and coded telegrams;

(c) Shall be immune from the jurisdiction of the judicial institutions of the USSR and the Union Republics in respect of offences committed in their official capacity;

(d) Shall not be liable to deprivation of liberty otherwise than in virtue of a final judicial decision, or to preventive detention otherwise than by order of the competent organ of judicial investigation where judicial proceedings have been instituted against them in respect of an act falling within the jurisdiction of the Supreme Court of the USSR, the Supreme Courts of a Union Republic, a provincial (or equivalent) court or a military tribunal;

(e) Enjoy inviolability with regard to official correspondence kept separately from the personal correspondence of consular staff on the official premises of consular missions. It shall be unlawful to inspect, seize or seal the said correspondence.

12. In all other matters not referred to in article 11 the status of consular representatives and other members of the official consular staffs of foreign consular missions who are not citizens of the USSR shall be determined by conventions concluded between the USSR and foreign States or by agreement between the People's Commissariat of Foreign Affairs and the diplomatic mission of the foreign State concerned.

(b) BASIC PRINCIPLES OF THE CRIMINAL LAW OF THE USSR AND THE UNION REPUBLICS (ORDER OF 31 OCTOBER 1924 OF THE CENTRAL EXECUTIVE COMMITTEE OF THE USSR)

SECTION I

Limitations on the effect of the criminal law

1. All persons in the territory of the USSR other than foreign citizens enjoying extritoriality shall be liable in respect of offences committed by them in the territory of the USSR to prosecution under the criminal law of the place of commission of the offence.

The question of the criminal liability of foreign citizens enjoying extritoriality shall be resolved through the diplomatic channel.

(c) CRIMINAL CODE OF THE RSFSR (OFFICIAL TEXT AS AMENDED UP TO 1 OCTOBER 1953, WITH NOTES ARRANGED ARTICLE BY ARTICLE)

. . .

4. Aliens shall be liable in respect of offences committed in the territory of the USSR to prosecution under the law of the place of commission of the offence.

5. The question of the criminal liability of foreign citizens enjoying extritoriality shall be resolved in each case through the diplomatic channel.¹

. . .

(d) CODE OF CRIMINAL PROCEDURE OF THE RSFSR (OFFICIAL TEXT AS AMENDED UP TO 1 JULY 1953, WITH NOTES ARRANGED ARTICLE BY ARTICLE)

. . .

178. No search or seizure may be carried out on premises occupied by diplomatic missions, or on premises in which diplomatic representatives, members of diplomatic missions and their families reside, except at the request or with the consent of the diplomatic representative and in the presence of a representative of the Procurator's Department and a representative of the People's Commissariat of Foreign Affairs if there is such a representative in the locality.²

. . .

(e) DECREE OF 10 APRIL 1942 OF THE PRESIDUM OF THE SUPREME SOVIET OF THE USSR, CONCERNING LOCAL TAXES AND DUTIES

. . .

CHAPTER II. *Buildings tax*

Article 5. The following shall be exempt from tax:

(m) Subject to reciprocity, buildings occupied by the diplomatic missions of foreign States to the Government of the USSR and buildings occupied by consular missions.

. . .

CHAPTER III. *Ground Rent*

Article 19. The following shall be exempt from ground rent:

(1) Ground attached to buildings exempt from the buildings tax.

. . .

CHAPTER IV. *Duty on the ownership of means of transport*

Article 29. The following shall be exempt from duty:

(c) Subject to reciprocity, the diplomatic representatives of foreign States to the Government of the USSR and consular representatives.

. . .

¹ The Criminal Codes of the other Union Republics contain corresponding articles.

² The Codes of Criminal Procedure of the other Union Republics contain corresponding articles.

(f) INSTRUCTION No. 20 OF 16 JANUARY 1956 OF THE MINISTRY OF FINANCE
I OF THE USSR CONCERNING INCOME TAX

. . .

Paragraph 4 of the Instruction: Foreign citizens sent on temporary mission to the USSR shall be exempt from tax on remuneration received from the sending organization.

Subject to reciprocity, members of the foreign diplomatic corps, foreign consular representatives and employees of foreign diplomatic and consular missions in the territory of the USSR who are foreign citizens shall likewise be exempt from tax.

. . .

(g) CUSTOMS CODE OF THE USSR (APPROVED BY ORDER OF 19 DECEMBER
1928 OF THE CENTRAL EXECUTIVE COMMITTEE AND THE COUNCIL OF
PEOPLE'S COMMISSARS OF THE USSR)

. . .

Article 151. The procedure for the clearance of freight accompanying foreign diplomatic and consular representatives and members of their staffs or consigned to such persons and to missions, and the procedure for the clearance, by the customs authorities, of foreign diplomatic couriers and official freight and personal effects accompanying them, shall be determined by special legislative provisions and by regulations approved by the People's Commissariat of External Trade of the USSR in agreement with the People's Commissariat of Foreign Affairs, the People's Commissariat of Finance of the USSR and the People's Commissariat of Internal Affairs.

. . .

(h) ORDER No. 110 OF 26 OCTOBER 1948, CONCERNING THE CENTRAL
CUSTOMS ADMINISTRATION

The "Regulations for the clearance of freight and baggage belonging to members of the foreign diplomatic corps, foreign consuls, members of the Governments of foreign States and members of delegations to diplomatic conferences convened in the USSR" issued pursuant to article 151 of the Customs Code of the USSR are hereby promulgated for guidance; they shall be enforced in all particulars.

On releasing imported goods, the export of which from the USSR is subject to special provisions (musical instruments, antiques and *objets d'art*, carpets, articles made from precious metals and precious stones, furs, field-glasses and the like) the customs office shall compile lists of the said goods containing a detailed description of their distinguishing characteristics, and shall furnish their owner with a certified true copy of such list, advising him that the loss thereof involves forfeiture of the right to privileged export of the said goods.

In order to prevent any difficulties in the return clearance of goods which have been imported without customs inspection by representatives of the foreign diplomatic corps but the export of which from the USSR is prohibited or restricted, the customs authorities shall be required to notify members of the diplomatic corps that such goods must be registered at the

Central Customs Administration through the Ministry of Foreign Affairs of the USSR within ten days from the date of entry.

Freight consigned to embassies and missions and the baggage of ambassadors, ministers, *chargés d'affaires*, councillors, military, naval and air attachés and their assistants, attachés, first, second and third secretaries of embassy, secretary-archivists, consuls-general, consuls and vice-consuls shall be exempt from storage fees.

Decree No. 57 of 27 August 1947 concerning the Central Customs Administration shall cease to have effect upon the publication of this Decree.

(i) REGULATIONS FOR THE CLEARANCE OF FREIGHT AND BAGGAGE BELONGING TO MEMBERS OF THE FOREIGN DIPLOMATIC CORPS, FOREIGN CONSULS, MEMBERS OF THE GOVERNMENTS OF FOREIGN STATES AND MEMBERS OF DELEGATIONS TO DIPLOMATIC CONFERENCES CONVENED IN THE USSR (PROMULGATED BY ORDER No. 110 OF 26 OCTOBER 1948 CONCERNING THE CENTRAL CUSTOMS ADMINISTRATION)

1. Subject to reciprocity, the personal hand and heavy baggage of the following persons accompanying them on the same train, ship or aircraft shall be exempt from customs inspection on entering and leaving the USSR:

(a) Heads of diplomatic missions accredited to the Union of Soviet Socialist Republics, ambassadors, ministers and *chargés d'affaires*;

(b) Members of diplomatic missions to the Union of Soviet Socialist Republics: counsellors, military, naval and air attachés and their assistants, first, second and third secretaries, attachés and secretary-archivists;

(c) Heads of foreign consulates in the USSR and the Union Republics: consuls-general, consuls and vice-consuls;

(d) Heads of foreign States, heads and members of Governments and presiding officers of parliaments;

(e) Heads and members of delegations to diplomatic conferences convened in the USSR and the Union Republics;

(f) Members of the families of ambassadors, ministers, *chargés d'affaires*, counsellors, military, naval and air attachés and their assistants, first, second and third secretaries, attachés and secretary-archivists, consuls-general, consuls, and vice-consuls, and of heads of foreign States, heads and members of Governments and presiding officers of parliaments, where such persons hold diplomatic passports and Soviet diplomatic visas;

(g) The holders of *laissez-passer* issued by the Ministry of Foreign Affairs of the USSR or by the embassies and legations of the USSR abroad.

2. In exceptional circumstances the hand and heavy baggage of the persons enumerated in paragraph 1 may be inspected by special order of the Central Customs Administration.

3. The following shall be subject to customs inspection:

(a) Baggage and freight not accompanying the persons enumerated in paragraph 1;

(b) Incoming freight consigned to diplomatic missions and consulates;

(c) The baggage of the non-official staff of diplomatic missions and consulates;

(d) The baggage of diplomats in transit through the territory of the USSR who are not in possession of a *laissez-passer* issued by the Ministry of

Foreign Affairs of the USSR or by embassies or legations of the USSR abroad;

NOTE: Baggage belonging to and containing personal possessions intended for the personal use of the persons referred to in paragraph 3 (a) and (c) shall be cleared free of duty.

(e) Freight and baggage entering and leaving the country separately from their owner (sub-paragraph (a)) or consigned to diplomatic missions and consulates in the USSR and the Union Republics shall be inspected only on customs premises.

4. Incoming freight and baggage consigned to heads and members of diplomatic missions and not accompanying their owner, and incoming freight and baggage consigned to diplomatic missions shall be subject to customs inspection and assessed for customs duty; however, collection of such duty shall be waived, subject to reciprocity and up to the maximum amounts hereinafter specified, where the said freight is intended to meet the personal requirements of the owner or the needs of the diplomatic mission. The maximum customs allowances which may be granted in respect of such freight and baggage shall be as follows, with effect from 1 January 1949:

	<i>Roubles per annum</i>
(a) For the general needs of an embassy	300,000
(b) For the general needs of a legation	200,000
(c) For the head of an embassy	120,000
(d) For the head of a legation	90,000
(e) For counsellors and military, naval and air attachés	40,000
(f) For other members of the diplomatic corps	20,000

5. The customs authorities shall release the freight and baggage referred to in paragraph 4 through customs as follows:

(a) Freight and baggage consigned to an embassy or legation or to the head of an embassy or legation on receipt of notification in writing from the head of the diplomatic mission concerned.

(b) Freight and baggage consigned to a member of the diplomatic corps: to the said member of the diplomatic corps in person or on receipt of his authorization duly attested by the diplomatic mission concerned.

NOTE: Goods, the import of which into the USSR is prohibited, shall not be cleared.

6. Amounts of duty assessed but not collected shall be entered by the Moscow Customs Office, in accordance with paragraph 4 of these Regulations, in account-books issued to diplomatic missions and to heads and members of diplomatic missions by the Central Customs Administration on the basis of the lists received from the Protocol Department of the Ministry of Foreign Affairs of the USSR.

NOTES: 1. In the case of diplomatic missions newly established in the USSR and heads and members of diplomatic missions who enter the USSR after 1 January of a calendar year, the maximum customs allowance for the period between the date of entry and the end of the year shall be calculated on the basis of the annual maximum.

2. On the departure of heads and members of diplomatic missions from the USSR, such diplomatic missions shall transmit the account-books of the said persons to the Central Customs Administration.

7. The amount of duty on incoming freight consigned to the holder of an account-book shall be entered therein. Duty on incoming freight consigned to other persons may not be entered in the said account-book.

The Moscow Customs Office shall keep records of the use made of the prescribed customs allowances; other customs authorities shall notify the Moscow Customs Office of any freight released and of the duty assessed. The unused balance of the customs allowance shall not be carried forward to the following year.

8. When the customs allowance of a diplomatic mission or of a head or member of a diplomatic mission is exhausted, freight and baggage shall not be released except by special authorization of the Ministry of External Trade after the customs duty and charges assessed have been paid.

9. Stamps, seals, ledgers, official forms, signs and flags required by diplomatic missions and consulates for official purposes and diplomatic uniforms of heads and members of diplomatic missions and consulates shall be cleared without assessment of duty, and shall not be entered in the account-books.

10. Incoming freight (furniture, crockery, motor vehicles etc.) consigned to and intended for the personal use of heads, members and employees of diplomatic missions and consulates on their first installation in the USSR or the Union Republics shall, on production of a communication in writing from the Protocol Department of the Ministry of Foreign Affairs of the USSR to the Central Customs Administration, be released free of duty, after inspection, as articles of "initial installation", and no entry shall be made in respect of such articles in the account-books.

Articles of "initial installation" may be received free of duty for a period of one year from the date of initial entry of the said persons and shall thereafter be cleared in accordance with paragraphs 4 and 8 of these Regulations.

11. When the persons referred to in paragraph 1 leave the USSR, freight and baggage belonging to the said persons but not accompanying them shall be subject to customs inspection and shall be released for export free of duty with the exception of articles the export of which is prohibited and of antiques and *objets d'art* such as paintings, drawings executed by hand, water-colours, miniatures and tapestries, and antique icons, ecclesiastical or domestic articles, weapons, textiles and ornaments, clothing, manuscripts and books, musical instruments, handicraft tools and other articles of archaeological importance.

Antiques and *objets d'art* shall not be released for export except on production to the customs authorities of a permit issued by the Committee of Artistic Affairs of the Council of Ministers of the USSR or of the Council of Ministers of a Union Republic and on payment of export duty at the rate fixed for such articles.

NOTES: 1. Articles the export of which from the USSR is prohibited, antiques and *objets d'art* shall be freely released for export, provided that they were imported into the USSR under paragraphs 4 and 10 of these Regulations, on the basis of the lists certified by the customs authorities on their importation into the USSR.

2. Articles the export of which from the USSR is prohibited, antiques and *objets d'art* imported under paragraph 1 of these Regulations shall be freely released for export on the basis of the lists registered by the Central

Customs Administration and delivered to the Ministry of Foreign Affairs by the owner of the articles within ten days of their importation into the USSR.

3. Articles of the above types which have been acquired in the territory of the USSR shall be released for export in accordance with general principles.

4. Freight belonging to any head or member of a diplomatic mission who has left the USSR permanently may be exported free of duty within a period of three months from the date of departure of its owner.

12. Incoming freight and baggage consigned to diplomatic missions and to heads and members of diplomatic missions may be stored in customs warehouses for the following periods:

- (a) Perishable produce 3 days
- (b) Other freight 2 months

If the owner fails to take delivery of the said freight within the prescribed period it shall be disposed of in accordance with the relevant regulations.

13. Baggage and freight belonging to the non-official staff of diplomatic missions shall be cleared in accordance with general principles.

(j) REGULATIONS FOR THE CLEARANCE OF THE DIPLOMATIC MAIL OF THE USSR AND OF FOREIGN STATES AND OF THE PERSONAL BAGGAGE OF DIPLOMATIC COURIERS BY THE CUSTOMS AUTHORITIES OF THE USSR (ISSUED PURSUANT TO ARTICLES 150 AND 151 OF THE CUSTOMS CODE OF THE USSR BY THE DEPUTY MINISTER OF EXTERNAL TRADE ON 26 APRIL 1954. APPROVED BY THE MINISTRY OF FOREIGN AFFAIRS OF THE USSR, THE MINISTRY OF INTERNAL AFFAIRS OF THE USSR AND THE MINISTRY OF FINANCE OF THE USSR)

1. Diplomatic mail carried by diplomatic couriers of the USSR or of foreign States across the State frontier of the USSR shall be inviolate and shall be cleared by the customs authorities without customs inspection, subject to the provisions of these Regulations.

2. The expression: "diplomatic mail" means packages, cases and bags carried by diplomatic couriers, sealed with the seals of the authorities sending out diplomatic couriers enumerated in paragraph 4, and duly entered in the official courier's list.

3. The quantity of diplomatic mail which may be imported or exported shall be agreed between the USSR and foreign States on the basis of reciprocity.

No restriction shall be placed on the quantity of diplomatic mail which may be carried in transit.

4. The right to exchange diplomatic mail shall pertain to the Ministry of Foreign Affairs of the USSR, the diplomatic and consular missions of the USSR abroad, the Departments of Foreign Affairs and diplomatic missions of foreign States with which the USSR maintains diplomatic relations and, subject to reciprocity, the consular missions of foreign States with which the USSR maintains diplomatic relations.

5. Every parcel of diplomatic mail shall be sealed with the wax or lead seals of the Ministry (Department) of Foreign Affairs or the diplomatic or consular mission which sends out the diplomatic courier, shall bear a label inscribed: "*Expédition officielle*" and shall be entered in the courier's list.

6. Each consignment of diplomatic mail must be accompanied by one copy of the courier's list drawn up by the authority sending out the diplomatic courier. The courier's list shall specify the number of parcels of diplomatic mail.

7. The courier's list accompanying the diplomatic mail of the USSR shall bear the following seals and signatures:

(a) Mail sent out of the USSR: the signature of the head of the Department of Diplomatic Dispatches of the Ministry of Foreign Affairs of the USSR or his deputy, and the seal of the Ministry of Foreign Affairs of the USSR;

(b) Mail entering the USSR: the signature of the head of the diplomatic or consular mission of the USSR abroad (or of a person acting on his behalf and the seal of the diplomatic or consular mission of the USSR abroad.

8. The courier's list accompanying the diplomatic mail of foreign States shall bear the following seals, signatures and visas:

(a) Mail sent out of the USSR: the signature of the head of a diplomatic or consular mission (or of a person acting on his behalf) of the State sending out the diplomatic courier, the seal of such diplomatic or consular mission and the visa of the Ministry of Foreign Affairs of the USSR;

(b) Mail entering the USSR: the signature of the head of the Department of Foreign Affairs (or of a person authorized by him) of the State sending out the diplomatic courier, and the seal of the said Department of Foreign Affairs; or, the signature of the head of a diplomatic or consular mission (or of a person acting on his behalf) of the State sending out the diplomatic courier, and the seal of such diplomatic or consular mission; and likewise the visa of a diplomatic or consular mission of the USSR abroad;

(c) Mail in transit through the USSR: the signature of the head of the Department of Foreign Affairs (or of a person authorized by him) of the State sending out the diplomatic courier, and the seal of the said Department of Foreign Affairs; or, the signature of the head of a diplomatic or consular mission (or of a person acting on his behalf) of the State sending out the diplomatic courier, and the seal of such diplomatic or consular mission. It shall not be compulsory for the courier's list accompanying diplomatic mail in transit to bear the visa of a diplomatic or consular mission of the USSR abroad or of the Ministry of Foreign Affairs of the USSR.

9. The courier's list shall be produced on clearance of the diplomatic mail through customs.

The customs authority shall subject parcels of diplomatic mail to external inspection only and shall verify that the provisions of paragraphs 2 and 5 of these Regulations have been complied with, after which the courier's list shall be returned to the diplomatic courier.

10. Diplomatic mail produced to the customs in violation of the provisions of these Regulations may be treated as follows:

(a) Mail sent out of the USSR may be cleared in accordance with general principles after customs inspection;

(b) Mail entering the USSR may be cleared in accordance with general principles after customs inspection, or may be sealed and dispatched under a waybill to the Moscow Customs Office for a decision as to clearance procedure.

In all the foregoing cases the customs authority shall notify the Central Customs Administration by telegram.

11. The personal baggage of Soviet diplomatic couriers shall be cleared in accordance with general principles.

The personal baggage of foreign diplomatic couriers shall be cleared in accordance with general principles; such baggage may, however, be exempted from customs inspection on the basis of reciprocity.

12. These Regulations shall likewise apply to the clearance by USSR customs authorities of diplomatic mail carried by persons other than diplomatic couriers.

United Kingdom of Great Britain and Northern Ireland ¹

(a) THE DIPLOMATIC PRIVILEGES ACT, 1708 ^{2 3} (AN ACT FOR PRESERVING THE PRIVILEGES OF AMBASSADORS AND OTHER PUBLIC MINISTERS OF FOREIGN PRINCES AND STATES

WHEREAS several turbulent and disorderly persons having in a most outrageous manner insulted the person of his excellency Andrew Artemonowitz Matueof ambassador extraordinary of his Czarish Majesty Emperor of Great Russia her Majesties good friend and ally by arresting him and taking him by violence out of his coach in the publick street and detaining him in custody for several hours in contempt of the protection granted by her Majesty contrary to the law of nations and in prejudice of the rights and privileges which ambassadors and other publick ministers authorised and received as such have at all times been thereby possessed of and ought to be kept sacred and inviolable

[*Ss. 1, 2, rep. 30 & 31 Vict. c. 59 (S. L.R.)*]

3. AND to prevent the like insolences for the future be it further declared by the authority aforesaid that all writs and processes that shall at any time hereafter be sued forth or prosecuted whereby the person of any ambassador or other publick minister of any foreign prince or state authorised and received as such by her Majesty her heirs or successors or the domestick or domestick servant of any such ambassador or other publick minister may be arrested or imprisoned or his or their goods or chattels may be distrained seized or attached shall be deemed and adjudged to be utterly null and void to all intents constructions and purposes whatsoever.

¹ The documents reproduced under the United Kingdom have been provided by the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations. In forwarding these documents, the Permanent Representative stated "that in the United Kingdom effect is given to the principles of international law relating to the diplomatic and consular immunities largely by virtue of the doctrine that international law is part of the common law of England. The Statutory provisions cannot, therefore, be taken alone as indicating the extent to which diplomatic and consular immunities are accorded in the United Kingdom."

² 7 Anne, Chapter XII.

³ The short title was given to this Act by the Short Titles Act, 1896 (c. 14).

4. AND . . . in case any person or persons shall presume to sue forth or prosecute any such writ or process such person and persons and all attorneys and solicitors prosecuting and soliciting in such case and all officers executing any such writ or process being thereof convicted by the confession of the party or by the oath of one or more credible witness or witnesses before the lord chancellor or lord keeper of the great seal of Great Britain the chief justice of the Court of Queens Bench the chief justice of the Court of Common Pleas for the time being or any two of them shall be deemed violaters of the laws of nations and disturbers of the publick repose and shall suffer such pains penalties and corporal punishment as the [said ¹] lord chancellor lord keeper and the said chief justices or any two of them shall judge fit to be imposed and inflicted.

5.² [PROVIDED and be it declared that no merchant or other trader whatsoever within the description of any of the statutes against bankrupts who hath or shall put himself into the service of any such ambassador or publick minister shall have or take any manner of benefit by this Act

6. AND that no person shall be proceeded against as having arrested the servant of an ambassador or publick minister by virtue of this Act unless the name of such servant be first registered in the office of one of the principal secretaries of state and by such secretary transmitted to the sheriffs of London and Middlesex for the time being or their under sheriffs or deputies who shall upon the receipt thereof hang up the same in some publick place in their offices whereto all persons may resort and take copies thereof without fee or reward]

7. . . . all sheriffs bailiffs and other officers and ministers of justice concerned in the execution of process are hereby required to have regard to this Act as they will answer the contrary at their peril.

(b) DIPLOMATIC IMMUNITIES (COMMONWEALTH COUNTRIES AND REPUBLIC OF IRELAND) ACT, 1952³

1. (1) Subject to the provisions of this section:

(a) A person for the time being recognised by Her Majesty's Government in the United Kingdom as the chief representative in the United Kingdom of any country to which this section applies, whether he is known by the title of High Commissioner for that country or by any other title, (in this section referred to as "a chief representative"), shall be entitled to the like immunity from suit and legal process, and the like inviolability of residence, official premises and official archives as are accorded to the envoy of a foreign sovereign Power accredited to Her Majesty;

(b) Such members of the official staff of a chief representative as are performing duties substantially corresponding to those performed by members of the official staff of an envoy of a foreign sovereign Power shall be entitled to the like immunity from suit and legal process as is accorded to members of the official staff of such an envoy;

(c) Members of the family of a chief representative or of a member of the official staff of a chief representative entitled to immunity under the last

¹ Interlined on the roll.

² Annexed to the original Act in two separate schedules.

³ 15 & 16 Geo. 6 & 1 Eliz. 2, Ch. 18.

preceding paragraph shall be entitled to immunity from suit and legal process to the like extent as members of the family of such an envoy or, as the case may be, of a member of the official staff of such an envoy; and

(d) Members of the domestic staff of a chief representative shall be entitled to the like immunity from suit and legal process as is accorded to members of the domestic staff of such an envoy:

Provided that a person who is a member of the official or domestic staff of the chief representative of any country, and is a citizen of the United Kingdom and Colonies and is not a citizen of that country, shall not be entitled under this subsection to immunity from suit and legal process, except in respect of things done or omitted to be done in the course of the performance of his duties, and the members of his family shall not, as such, be entitled to any immunity from suit and legal process.

(2) Her Majesty may by Order in Council confer:

(a) On persons in the service of the Government of any country to which this section applies (other than persons on whom immunity is conferred by the preceding subsection) holding such offices or classes of offices as may be specified in the Order, being offices or classes of offices appearing to Her Majesty to involve the performance of duties substantially corresponding to those which, in the case of a foreign sovereign Power, would be performed by a consular officer,

(b) On a person for the time being recognised by Her Majesty's Government in the United Kingdom as the chief representative in the United Kingdom of any state or province of any country to which this section applies (in this section referred to as "a state representative"),

(c) On members of the staff of a state representative holding such offices or classes of offices as may be specified in the Order, being offices or classes of offices appearing to Her Majesty to involve the performance of duties substantially corresponding to those which, in the case of a foreign sovereign Power, would be performed by a consular officer,

the like immunity from suit and legal process and the like inviolability of official archives as are accorded to consular officers of a foreign sovereign Power, and the Order in Council may provide for applying, in relation to official premises of persons on whom immunity is conferred under this subsection, the provisions of subsection (1) of section four of the Consular Conventions Act, 1949 (which restricts powers of entry in relation to consular offices) as if those premises were consular offices of a State to which that section applies and those persons were consular officers.

(3) If in any proceedings any question arises whether or not any person is entitled to immunity from suit and legal process under any provision of this section or of any Order in Council made thereunder, a certificate issued by or under the authority of the Secretary of State stating any fact relevant to that question shall be conclusive evidence of that fact.

(4) The Secretary of State shall compile a list of the persons appearing to him to be entitled to immunity from suit and legal process under subsection (1) of this section, except children under the age of eighteen of a person so entitled and persons whose immunity is limited by the proviso to that subsection, and the Secretary of State shall from time to time amend the list and shall cause the list and any amendment of the list or any amended list to be published in the London, Edinburgh and Belfast Gazettes.

(5) Notwithstanding anything in the preceding provisions of this section:

(a) A chief representative may waive any immunity conferred by or under this section on himself or on a member of his staff, or on a member of his family or of the family of a member of his staff, or on a person in the service of the Government of the country which he represents;

(b) A state representative may waive any immunity conferred under this section on himself or on a member of his staff.

(6) The countries to which this section applies are Canada, Australia, New Zealand, the Union of South Africa, India, Pakistan, Ceylon, Southern Rhodesia, and the Republic of Ireland.

2. (1) Her Majesty may by Order in Council provide for including among the countries to which the preceding section applies any country specified in the Order, being a country within the Commonwealth.

(2) Her Majesty may by Order in Council provide that the preceding section shall cease to apply to, or shall be modified in its application to, any country on the ground that that country is failing to accord corresponding treatment to the United Kingdom.

. . .
5.

. . .

(3) It is hereby declared that this Act extends to Northern Ireland.

(c) DIPLOMATIC IMMUNITIES RESTRICTION ACT, 1955¹

. . .

1. (1) If it appears to Her Majesty that the personal immunities conferred by law on the envoys of foreign sovereign Powers accredited to Her Majesty, their families and servants, and members of the official staff of such envoys and their families, exceed in any respect those accorded in the territory of any such Power to an envoy of Her Majesty and persons similarly connected with him, Her Majesty may by Order in Council withdraw the said personal immunities in the case of that Power, to such extent and in respect of such classes of persons as appears to Her Majesty to be proper.

(2) An Order in Council under this section may be varied or revoked by a subsequent Order in Council.

(3) Any statutory instrument containing an Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

2. (1) Subject to the provisions of this section, no person being a citizen of the United Kingdom and Colonies shall be entitled to any such personal immunities as are mentioned in section one of this Act.

(2) This section shall not affect any immunity enjoyed by any person by virtue of an office or employment in respect of which he was accepted on behalf of Her Majesty at any time before the passing of this Act.

3. (1) In this Act "personal immunities" means immunity from suit or legal process (except in respect of things done or omitted to be done in the course of the performance of official duties) and inviolability of residence.

(2) Nothing in this Act, or in any Order in Council made thereunder, shall affect the operation of any enactment which confers or makes provision for conferring on any class of persons immunities corresponding with any

¹ 4 Eliz. 2, Ch. 21.

such personal immunities as are mentioned in section one of this Act; and any such Order in Council shall be disregarded for the purposes of paragraph (a) of the proviso to section four of the British Nationality Act, 1948 (which relates to the citizenship of the children of certain persons possessing immunity from suit and legal process).

(d) DIPLOMATIC IMMUNITIES RESTRICTION ORDER, 1956¹

Whereas it appears to Her Majesty that the immunities from suit or legal process conferred by law on servants, or on members or families of members of the official staff, of the envoys of certain foreign sovereign Powers accredited to Her Majesty exceed in certain respects those accorded in the territories of such Powers to persons similarly connected with an envoy of Her Majesty;

And whereas it appears to Her Majesty to be proper to withdraw the said immunities in the case of those Powers to the extent and in respect of the classes of persons hereinafter described:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf conferred on Her by section one of the Diplomatic Immunities Restriction Act, 1955(a), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. The immunities from suit or legal process (except in respect of things done or omitted to be done in the course of the performance of official duties) conferred by law on members of the official staff below the rank of Attaché of the envoy of a foreign sovereign Power specified in the First Schedule hereto are hereby withdrawn.

2. The immunities from suit or legal process conferred by law on the families of:

(a) Members of the official staff of the envoy of Argentina, being of the rank of Attaché or above,

(b) Members of the official staff of the envoy of the United States of America below the rank of Attaché, or

(c) Persons to whom Article 1 of this Order applies, are hereby withdrawn.

3. The immunities from suit or legal process (except in respect of things done or omitted to be done in the course of the performance of official duties) conferred by law on servants of the envoy of a foreign sovereign Power specified in the Second Schedule hereto (whether such servants are employed in the service of the Mission or, except in the case of Finland and Switzerland, in the personal service of the envoy) are hereby withdrawn.

THE FIRST SCHEDULE

(ARTICLE 1 OF THE ORDER)

Argentina	Peru
Brazil	Poland
Finland	Switzerland
France	Union of Soviet Socialist Republics
Laos	Yugoslavia
Lebanon	

¹ *Statutory Instruments, 1956, No. 84.*

THE SECOND SCHEDULE

(ARTICLE 3 OF THE ORDER)

Afghanistan	Laos
Argentina	Lebanon
Bolivia	Mexico
Brazil	Nicaragua
Colombia	Poland
Finland	Switzerland
France	Union of Soviet Socialist Republics
Iceland	Uruguay
Indonesia	Venezuela
Japan	Yugoslavia
Korea	

(e) CONSULAR CONVENTIONS ACT, 1949¹

1. (1) Where any person who is a national of a State to which this section applies is named as executor in the will of a deceased person disposing of property in England, or is otherwise a person to whom a grant of representation to the estate in England of a deceased person may be made, then if the court is satisfied, on the application of a consular officer of the said State, that the said national is not resident in England, and if no application for a grant of such representation is made by a person duly authorised by power of attorney to act for him in that behalf, the court shall make to that officer any such grant of representation to the estate of the deceased as would be made to him if he were so authorised as aforesaid:

Provided that the court may, if it thinks fit, postpone the making of a grant by virtue of this section during such period as the court considers appropriate having regard to the circumstances of the case.

(2) Where any person who is a national of a State to which this section applies:

(a) Is entitled to payment or delivery of any money or property in respect of any interest in the estate of a deceased person, or vesting in possession on the death of any person, or is entitled to payment of any money becoming due on the death of any person; or

(b) Is a person to whom any money or property comprised in the estate of a deceased person may be paid or delivered in pursuance of any enactment, rule or regulation, whether passed or made before or after the commencement of this Act, authorising the payment or delivery of such money or property without representation to the estate of the deceased being granted,

then if the said national is not resident in England, a consular officer of that State shall have the like right and power to receive and give a valid discharge for any such money or property in England as if he were duly authorised by power of attorney to act for him in that behalf:

Provided that no person shall be authorised or required by this subsection to pay or deliver any money or property to a consular officer if it is within his knowledge that any other person in England has been expressly authorised to receive that money or property on behalf of the said national.

¹ 12 & 13 Geo. 6, Ch. 29.

(3) A grant of administration made by virtue of this section may be made to the consular officer by his official title, and to his successors in office; and where a grant is so made, the office of administrator, and all the estate, rights, duties and liabilities of the administrator (including liabilities under the administration bond) shall be vested in and imposed on the person for the time being holding the office, and no fresh grant shall be required by reason only of the death or vacation of office of the person to whom the grant was made or in whom it is vested as aforesaid:

Provided that nothing in this subsection shall affect any limitation contained in the grant, or any power of the court to revoke the grant.

(4) Notwithstanding anything in subsection (1) of section one hundred and sixty of the Supreme Court of Judicature (Consolidation) Act, 1925 (which provides that in the case of a minority or a life interest administration must be granted either to a trust corporation or to not less than two individuals), administration of an estate may in any case be granted by virtue of this section to a consular officer alone; and subsection (2) of the said section one hundred and sixty (which provides for the appointment of additional personal representatives in the case of a minority or a life interest) shall not apply in any case where the existing personal representative is a consular officer appointed by virtue of this section.

(5) Without prejudice to the provisions of subsection (7) of section one hundred and sixty-seven of the Supreme Court of Judicature (Consolidation) Act, 1925 (which enables probate rules and orders to dispense with sureties to administration bonds in certain cases), sureties shall not be required to an administration bond given by a consular officer upon the grant of administration by virtue of this section.

2. (1) Where any person who is a national of a State to which this section applies is named as executor in the will of a deceased person disposing of property in Scotland, or is otherwise a person who may be appointed or confirmed as executor on the estate in Scotland of a deceased person, a consular officer of the said State, if satisfied that the said national is not resident in Scotland, and that he is not represented by a person duly authorised by power of attorney to act for him in that behalf, may make application to the court for the said national to be appointed or confirmed as executor on the estate of the deceased as if the said officer were so authorised as aforesaid.

(2) Where the court has granted an application for appointment or confirmation as executor on the estate of a deceased person made by a consular officer by virtue of this section that officer or his successors in office shall be entitled to receive and administer the said estate and to do all things necessary in that behalf as if duly authorised so to act by power of attorney granted by the executor.

(3) Where any person who is a national of a State to which this section applies:

(a) Is entitled to payment or delivery of any money or property in respect of any interest in the estate of a deceased person or is entitled to payment or delivery of any money or property becoming due on the death of any person; or

(b) Is a person to whom any money or property comprised in the estate of a deceased person may be paid or delivered in pursuance of any enactment, rule or regulation, whether passed or made before or after the com-

mencement of this Act, authorising the payment or delivery of such money or property without production of confirmation; then if the said national is not resident in Scotland a consular officer of that State shall have the like right and power to give a valid discharge for any such money or property in Scotland, to take all such steps as may be necessary for completing the title of the said national to such property and to administer or dispose of that property as if he were duly authorised by power of attorney to act for him in that behalf:

Provided that no person shall be authorised or required by this subsection to pay or deliver any money or property to a consular officer if it is within his knowledge that any other person in Scotland has been expressly authorised to receive that money or property on behalf of the said national.

3. Notwithstanding any rule of law conferring immunity or privilege in respect of the official acts and documents of consular officers, a consular officer shall not be entitled to any immunity or privilege in respect of any act done by virtue of powers conferred on him by or under section one or section two of this Act, or in respect of any document for the time being in his possession relating thereto.

4. (1) Subject to the provisions of this section, a consular office of a State to which this section applies shall not be entered by a constable or other person acting in the execution of any warrant or other legal process or in the exercise of powers conferred by or under any enactment (whether passed before or after the commencement of this Act), or otherwise, except with the consent of the consular officer in charge of that office or, if that consent is withheld or cannot be obtained, with the consent of a Secretary of State:

Provided that the foregoing provisions of this subsection shall not apply in relation to any entry effected:

(a) In pursuance of subsection (1) of section thirty of the Fire Services Act, 1947 (which confers power to enter premises for the purpose of extinguishing fire) or any other enactment making provision corresponding with the provisions of that subsection;

(b) By a constable having reasonable cause to believe that a crime involving violence has been or is being or is about to be committed in the consular office;

(c) By any person entitled to enter by virtue of any easement, contract or other private right.

(2) This section shall not apply to any consular office which for the time being is in the charge of a consular officer who is a citizen of the United Kingdom and Colonies or is not a national of the State by which that office is maintained.

(3) For the purposes of this section, the expression "consular office" means any building or part of a building which is exclusively occupied for the purposes of the official business of a consular officer.

5. (1) Where it appears to the Minister of Transport that any person to whom any money or other property of a deceased seaman may be paid or delivered under paragraph (b) of subsection (1) of section one hundred and seventy-six of the Merchant Shipping Act, 1894 (which relates to the disposal of property not exceeding one hundred pounds in value) is resident in a foreign State, he may pay or deliver the money or property to a consular

officer of that State on behalf of that person; and the provisions of that section shall have effect accordingly.

(2) The powers of a consul general or other consular officer under subsection (2) of section five hundred and twenty-one of the Merchant Shipping Act, 1894 (which enables a consular officer in certain circumstances to act as the agent of the owner for the purposes of the custody and disposal of articles belonging to or forming part of a foreign ship wrecked on or near the coasts of the United Kingdom) shall extend to the custody and disposal of the wrecked ship itself as well as to the custody and disposal of such articles as aforesaid.

6. (1) His Majesty may by Order in Council direct that sections one and two or section four of this Act shall apply to any foreign State specified in the Order, being a State with which a consular convention providing for matters for which provision is made by those sections has been concluded by His Majesty.

(2) Any Order in Council made under this section may be revoked by a subsequent Order.

(3) Any Order in Council made under this section shall be laid before Parliament after being made.

7. (1) This Act shall, subject to the provisions of this section, apply to Northern Ireland as it applies to England.

(2) In the application of this Act to Northern Ireland:

(a) The expression "enactment" shall include an enactment of the Parliament of Northern Ireland;

(b) Subsection (3) of section one shall not have effect, and for subsection (4) of that section there shall be substituted the following subsection:

"(4) Notwithstanding anything in section eighty-six of the Probates and Letters of Administration Act (Ireland) 1857, sureties shall not be required to an administration bond given by a consular officer upon the grant of administration by virtue of this section.";

(c) In subsection (1) of section four the references to a constable shall be construed as including references to a constable of the Royal Ulster Constabulary or a special constable.

(f) CONSULAR CONVENTIONS (KINGDOM OF NORWAY)
ORDER IN COUNCIL, 1951¹

Whereas by Section 6 (1) of the Consular Conventions Act, 1949 (hereinafter referred to as the Act) it is enacted that His Majesty may by Order in Council direct that Sections one and two or Section four of the Act (which provide for the exercise by consular officers of certain powers in relation to the property of deceased persons, and for the restriction of the powers of entry in relation to consular offices) shall apply to any foreign State specified in the Order, being a State with which a Consular Convention providing for matters for which provision is made by those Sections has been concluded by His Majesty;

And Whereas a Consular Convention² (hereinafter referred to as the Convention) between His Majesty in respect of the United Kingdom of

¹ *Statutory Instruments, 1951, No. 1165.*

² *Cmd. 8249.*

Great Britain and Northern Ireland and His Majesty the King of Norway was signed at Oslo on the 22nd day of February, 1951, which provides for matters for which provision is made in the said Sections one and two and Section four, and which takes effect on the thirtieth day after the date of exchange of instruments of ratification;

And Whereas His Majesty's Government in the United Kingdom desire to ratify the Convention.

Now, therefore, His Majesty, by virtue and in exercise of the powers in this behalf conferred on Him by the Act or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

1. Sections one and two and Section four of the Act shall apply to the Kingdom of Norway.

. . .

NOTE. In conformity with similar Orders, Sections one, two and four of the Consular Conventions Act, 1949, also apply to Sweden (Consular Conventions (Kingdom of Sweden) Order, 1952 (*Statutory Instruments*, 1952, No. 1218)); France (Consular Conventions (French Republic) Order, 1953 (*ibid.*, 1953, No. 1455)); Greece (Consular Conventions (Kingdom of Greece) Order, 1953 (*ibid.*, 1953, No. 1454)); Mexico (Consular Conventions (United States of Mexico) Order, 1955 (*ibid.*, 1955, No. 425)). In accordance with a similar Order also, section four of the said Act applies to the United States of America (Consular Conventions (United States of America) Order, 1952 (*ibid.*, 1952, No. 1416)).

(g) ALIENS ORDER, 1953 ¹

. . .

General power to grant exemptions

23. The Secretary of State may direct that any particular person, or persons of any specified class, shall be exempt, either unconditionally or subject to such conditions as the Secretary of State may impose, from all or any of the provisions of this Order.

. . .

(h) ALIENS (FOREIGN REPRESENTATIVES) DIRECTION, 1954 ²

. . .

1. (1) A consular officer in the service of any of the states named in the First Schedule hereto (being states with which consular conventions have been concluded by Her Majesty) shall be exempt from the provisions of the Aliens Order specified in the Second Schedule hereto and any other consular officer (not being an honorary consular officer) shall be exempt from the provisions of the said Order specified in paragraph 5 of the Second Schedule hereto.

(2) Unless the Secretary of State otherwise directs in any particular case, a consular employee in the service of a state named in the First Schedule hereto shall be exempt from the provisions of the Aliens Order specified in

¹ *Statutory Instruments*, 1953, No. 1671.

² *Statutory Instruments*, 1954, No. 396.

the Second Schedule hereto and any other consular employee shall be exempt from the provisions of the said Order specified in paragraph 5 of the Second Schedule hereto.

(3) The wife and minor children of a consular officer or employee residing with him shall have the like exemption as that officer or employee, as the case may be.

2. A member of a foreign government who is visiting the United Kingdom on the business of that government shall be exempt from the provisions of the Aliens Order specified in paragraphs 1 to 4 of the Second Schedule hereto.

3. (1) An alien to whom this paragraph applies shall be exempt from the provisions of the Aliens Order specified in paragraphs 1 to 5 of the Second Schedule hereto.

(2) This paragraph applies to:

(a) Any alien entitled to immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties, being immunity conferred under paragraph (c) of subsection (2) of section one of the International Organisations (Immunities and Privileges) Act, 1950 (b) (which paragraph relates to certain officers and servants of international organisations of which the United Kingdom or Her Majesty's government therein is a member);

(b) The wife and minor children of any such alien as aforesaid who are residing with him.

4. For the purposes of this Direction the following expressions have the meanings hereby respectively assigned to them, that is to say:

"Consular officer" means a person holding Her Majesty's exequatur or otherwise recognised by Her Majesty's government as authorised to act as a consular officer in the United Kingdom;

"Consular employee" means a person (not being a consular officer) who is employed on consular duties (otherwise than solely as a driver or on domestic duties at or in the upkeep of consular premises) in the United Kingdom and in respect of whom the following conditions are satisfied:

(a) His name has been duly communicated to the Secretary of State by a diplomatic or consular officer in the service of the state by which the consular employee is employed;

(b) He is a permanent employee of the state by which he is employed on consular duties in the United Kingdom;

(c) He is not engaged in private occupation for gain in the United Kingdom.

. . .

FIRST SCHEDULE

STATES WITH WHICH CONSULAR CONVENTIONS HAVE BEEN CONCLUDED BY HER MAJESTY

France
Greece
Norway

Sweden
United States of America

SECOND SCHEDULE

PROVISIONS OF THE ALIENS ORDER, 1953, FROM WHICH CERTAIN ALIENS ARE EXEMPTED BY THIS DIRECTION

1. Article 1 (which prohibits aliens, with certain exceptions, from landing or embarking in the United Kingdom without the leave of an immigration officer or elsewhere than at an approved port).

2. Paragraph (3) of Article 3 (which imposes restrictions on certain aliens coming to the United Kingdom from abroad via the Republic of Ireland).

3. Article 6 (which requires aliens to comply, while in the United Kingdom, with conditions attached to the grant of leave to land in the Channel Islands or the Isle of Man).

4. Article 12 (which provides for the disclosure of documents by aliens landing or embarking in the United Kingdom).

5. Articles 14 to 17 (which provide for the registration of aliens).

6. Article 20 (which relates to the deportation of aliens).

(i) INCOME TAX ACT, 1952 ¹

PART XXII

*Exemptions for Charities and other Miscellaneous Exemptions**Consuls and other official agents*

462. (1) Income arising from any office or employment to which this section applies shall be exempt from income tax, and no account shall be taken of any such income in estimating the amount of income for any income tax purposes.

(2) The offices and employments to which this section applies are the following, that is to say:

(a) The office of a consul in the United Kingdom in the service of any foreign state; and

(b) The employment of an official agent in the United Kingdom for any foreign state, not being an employment exercised by a British subject or a citizen of the Republic of Ireland or exercised in connection with any trade, business or other undertaking carried on for the purposes of profit.

(3) In this section:

“ Consul ” means a person recognised by Her Majesty as being a consul-general, consul, vice-consul or consular agent; and

“ Official agent ” means a person, not being a consul, who is employed on the staff of any consular, official department or agency of a foreign state, not being a department or agency which carries on any trade, business or other undertaking for the purposes of profit.

¹ 15 & 16 Geo. 6 & 1 Eliz. 2, Ch. 10.

(j) FINANCE ACT, 1954¹

PART III

*Income Tax and Profits Tax**Consular officers and employees*

24. (1) Where a consular officer or employee in the United Kingdom of any foreign state to which this section applies:

(a) Is not a citizen of the United Kingdom and colonies; and
 (b) Is not engaged in any trade, profession, vocation or employment in the United Kingdom, otherwise than as such a consular officer or employee; and

(c) Either is a permanent employee of that state or was not ordinarily resident in the United Kingdom immediately before he became a consular officer or employee in the United Kingdom of that state;

then any income of his falling within Case IV or V of Schedule D (which relate to income from overseas property) shall be exempt from income tax, and he shall be treated as not resident in the United Kingdom for the purposes of sections one hundred and twenty and one hundred and ninety of the Income Tax Act, 1952 (which exempt certain dividends, etc., of non-residents).

(2) Without prejudice to section four hundred and sixty-two of the Income Tax Act, 1952 (which exempts from tax the emoluments of foreign consular officers and certain foreign consular employees), the income arising from a person's employment in the United Kingdom as a consular employee of any foreign state to which this section applies shall be exempt from income tax, except in the case of a person who is not a national of that state but is a citizen of the United Kingdom and colonies.

(3) For the purposes of this section, "consular employee" includes any person employed, for the purposes of the official business of a consular officer, at any consulate or consular establishment or at any other premises used for those purposes.

(4) This section shall apply to any foreign state to which Her Majesty by Order in Council directs that it shall apply for the purpose of giving effect to any consular convention or other arrangement with that state making similar provision in the case of Her Majesty's consular officers or employees in that state:

Provided that any such Order in Council may limit the operation of this section in relation to any state in such manner as appears to Her Majesty to be necessary or expedient having regard to the arrangement with that state.

(5) Any Order in Council under this section may be made so as to have effect from a date earlier than the making of the Order or the passing of this Act (but not earlier than the coming into force of the arrangement with regard to which it is made), may be varied or revoked by a subsequent Order in Council and may contain such transitional provisions as appear to Her Majesty to be necessary or expedient.

(6) Any statutory instrument under this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

¹ 2 & 3 Eliz. 2, Ch. 44.

(k) CONSULAR CONVENTIONS (INCOME TAX)
(FRENCH REPUBLIC) ORDER, 1955¹

Whereas it is provided by Section 24 (hereinafter referred to as "the Section") of the Finance Act, 1954, that certain income of consular officers and employees of any foreign state to which the Section applies shall, subject to certain limitations, be exempt from income tax:

And Whereas it is also provided by the Section that the Section shall apply to any foreign state to which Her Majesty by Order in Council directs that it shall apply for the purpose of giving effect to any consular convention or other arrangement with that state making similar provision in the case of Her Majesty's consular officers or employees in that state:

And Whereas it is also provided by the Section that any such Order in Council may limit the operation of the Section in relation to any state in such manner as appears to Her Majesty to be necessary or expedient having regard to the arrangement with that state:

And Whereas it is also provided by the Section that any such Order in Council may be made so as to have effect from a date earlier than the making of the Order or the passing of the Act (but not earlier than the coming into force of the arrangement with regard to which it is made):

And Whereas a Consular Convention² (hereinafter referred to as "the Convention") between His late Majesty King George the Sixth in respect of the United Kingdom of Great Britain and Northern Ireland and the President of the French Republic was signed at Paris on the 31st day of December, 1951, which provides, subject to certain limitations, for the matters for which provision is made in the Section and similarly in the case of Her Majesty's consular officers or employees in the French Republic, and came into force on the 14th day of January, 1954:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf conferred on Her by the Section or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. Section 24 of the Finance Act, 1954, shall apply to the French Republic.

. . .

3. The Section shall not apply in respect of a consular employee whose name has not been duly communicated in accordance with Article 5 of the Convention or who is a chauffeur or engaged solely in domestic duties at or in the upkeep of the consular premises.

4. Subsection (1) of the Section shall not apply in respect of a consular agent nor shall it apply in respect of a consular officer or employee who was ordinarily resident in the United Kingdom immediately before he became a consular officer or employee in the United Kingdom of the French Republic.

5. Subsection (2) of the Section shall not apply in respect of a consular employee who is a citizen of the United Kingdom and colonies.

. . .

¹ *Statutory Instruments, 1955, No. 159.*

² *Cmd. 8457.*

(l) CONSULAR CONVENTIONS (INCOME TAX) (KINGDOM
OF GREECE) ORDER, 1955^{1 2}

. . .

And Whereas a Consular Convention³ (hereinafter referred to as “the Convention”) between Her Majesty in respect of the United Kingdom of Great Britain and Northern Ireland and His Majesty The King of The Hellenes was signed at Athens on the 17th day of April, 1953, which provides, subject to certain limitations, for the matters for which provision is made in the Section and similarly in the case of Her Majesty’s consular officers or employees in the Kingdom of Greece, and came into force on the 14th day of February, 1954:

. . .

1. Section 24 of the Finance Act, 1954, shall apply to the Kingdom of Greece.

. . .

3. The Section shall not apply in respect of a consular employee whose name has not been duly communicated in accordance with Article 6 of the Convention or who is a driver or employed solely on domestic duties at or in the upkeep of the consular premises.

4. Subsection (2) of the Section shall not apply in respect of a consular employee who is a citizen of the United Kingdom and colonies.

. . .

(m) CONSULAR CONVENTIONS (INCOME TAX) (KINGDOM
OF NORWAY) ORDER, 1955⁴

. . .

And Whereas a Consular Convention⁵ (hereinafter referred to as “the Convention”) between His late Majesty King George the Sixth in respect of the United Kingdom of Great Britain and Northern Ireland and His Majesty The King of Norway was signed at Oslo on the 22nd day of February, 1951, which provides, subject to certain limitations, for the matters for which provision is made in the Section and similarly in the case of Her Majesty’s consular officers or employees in the Kingdom of Norway, and came into force on the 30th day of August, 1951:

. . .

1. Section 24 of the Finance Act, 1954, shall apply to the Kingdom of Norway.

. . .

¹ *Statutory Instruments, 1955, No. 160.*

² Paragraphs 1-4 and 6 of the preamble to this Order, as well as to the preamble of the four following Orders (*m*, *n*, *o* and *p*) are identical with paragraphs 1-4 and 6 of the preamble to the Consular Convention (Income Tax) (French Republic) Order, 1955, reproduced above.

³ *Cmd. 8849.*

⁴ *Statutory Instruments, 1955, No. 156.*

⁵ *Cmd. 8249.*

3. The Section shall not apply in respect of a consular employee whose name has not been duly communicated in accordance with Article 6 of the Convention or who is a driver or employed solely on domestic duties at or in the upkeep of the consular premises.

4. Subsection (2) of the Section shall not apply in respect of a consular employee who is a citizen of the United Kingdom and colonies.

. . .

(n) CONSULAR CONVENTIONS (INCOME TAX)
(KINGDOM OF SWEDEN) ORDER, 1955¹

. . .

And Whereas a Consular Convention² (hereinafter referred to as "the Convention") between Her Majesty in respect of the United Kingdom of Great Britain and Northern Ireland and His Majesty The King of Sweden was signed at Stockholm on the 14th day of March, 1952, which provides, subject to certain limitations, for the matters for which provision is made in the Section and similarly in the case of Her Majesty's consular officers or employees in the Kingdom of Sweden, and came into force on the 24th day of September, 1952:

. . .

1. Section 24 of the Finance Act, 1954, shall apply to the Kingdom of Sweden.

. . .

3. The section shall not apply in respect of a consular employee whose name has not been duly communicated in accordance with Article 6 of the Convention or who is a driver or employed solely on domestic duties at or in the upkeep of the consular premises.

4. Subsection (1) of the Section shall not apply in respect of an honorary consular officer or in respect of any consular employee serving at a consular post which is in the charge of an honorary consular officer.

5. Subsection (2) of the Section shall not apply in respect of a consular employee who is a citizen of the United Kingdom and colonies nor *shall it* apply in respect of a consular employee who is not a national of the Kingdom of Sweden.

. . .

(o) CONSULAR CONVENTIONS (INCOME TAX) (UNITED
STATES OF AMERICA) ORDER, 1955³

. . .

And Whereas a Consular Convention⁴ (hereinafter referred to as "the Convention") between His late Majesty King George the Sixth in respect

¹ *Statutory Instruments, 1955, No. 158.*

² *Cmd. 8541.*

³ *Statutory Instruments, 1955, No. 157.*

⁴ *Cmd. 8289.*

of the United Kingdom of Great Britain and Northern Ireland and the President of the United States of America was signed at Washington on the 6th day of June, 1951, which provides, subject to certain limitations, for the matters for which provision is made in the Section and similarly in the case of Her Majesty's consular officers or employees in the United States of America, and came into force on the 7th day of September, 1952:

. . .

1. Section 24 of the Finance Act, 1954, shall apply to the United States of America.

. . .

3. The Section shall not apply in respect of a consular employee whose name has not been duly communicated in accordance with Article 6 of the Convention or who is employed on domestic duties.

. . .

(p) CONSULAR CONVENTIONS (INCOME TAX) (UNITED STATES OF MEXICO) ORDER, 1955¹

. . .

And Whereas a Consular Convention² (hereinafter referred to as "the Convention") between Her Majesty in respect of the United Kingdom of Great Britain and Northern Ireland and the President of the United States of Mexico was signed at Mexico City on the 20th day of March, 1954, which provides, subject to certain limitations, for the matters for which provision is made in the Section and similarly in the case of Her Majesty's consular officers or employees in the United States of Mexico, and which takes effect on the thirtieth day after the date of exchange of instruments of ratification:

. . .

1. Section 24 of the Finance Act, 1954, shall apply to the United States of Mexico.

2. The Section shall not apply in respect of a consular employee whose name has not been duly communicated in accordance with Article 6 of the Convention or who is a driver or employed solely on domestic duties at or in the upkeep of the consular premises.

3. Subsection (2) of the Section shall not apply in respect of a consular employee who is a citizen of the United Kingdom and colonies.

. . .

¹ *Statutory Instruments, 1955, No. 161.*

² *Cmd. 9162.*

United States of America ¹

(a) MEMORANDUM ² ON RIGHTS AND PRIVILEGES ACCORDED REPRESENTATIVES OF FOREIGN GOVERNMENTS IN THE UNITED STATES

I. IMMUNITY FROM JUDICIAL PROCESS

Sections 252-255b, Title 22, of the United States Code provide as follows:

. . . ³

II. EXEMPTION FROM CUSTOMS DUTIES AND TAXES IMPOSED UPON OR BY REASON OF IMPORTATION OF MERCHANDISE

The United States customs regulations provide for the extension of customs courtesies and free entry privileges to diplomatic and consular personnel of foreign countries, and outline the procedure to be followed in requesting such courtesies and privileges. The pertinent portions of these regulations are set forth below:

Diplomatic and consular officers

. . . ⁴

It will be noted from the foregoing that, except for certain types of official supplies set forth in section 10.30(a), *supra*,⁴ which merchandise may be cleared directly by application to the local collector of customs, and for the two classes of imported material set forth in the following two paragraphs all requests for customs free entry privileges should be addressed by the diplomatic mission to the Department of State. It is suggested that, whenever official supplies within the purview of section 10.30 (a) are imported,

¹ The material reproduced under United States has been provided by the Secretary of State of the United States.

In his Note of 17 April 1957, the Secretary of State invited the attention of the International Law Commission, in connection with its study of diplomatic and consular intercourse and immunities, "to the discussion contained in the *Digest of International Law* by John Bassett Moore (1906) and the *Digest of International Law* by Green Heywood Hackworth (1941-1943) on the interpretation and application of Federal and State laws and regulations and treaties and other international agreements to which the United States is a party, and to positions taken by the United States Government with respect to the status of its diplomatic and consular representatives in the countries of their assignment. See, particularly, Chapter XIX and Chapter XV of Volume IV and pages 274-275 and 291-292 of Volume V of Hackworth's *Digest*. Both Moore's *Digest* and Hackworth's *Digest* were compiled in the Department of State and are official publications of the United States Government."

² Enclosed in a circular note from the Secretary of State to Chiefs of Mission in Washington, dated 25 July 1955. This Memorandum outlines the more important privileges, immunities, and exemptions accorded foreign diplomatic and consular personnel in the United States, and contains the texts of Federal and State Laws and Regulations deemed most pertinent to the subject.

³ The texts of sections 252-254 are reproduced *infra* (f); section 255 is covered by sections 112 and 1545 of Title 18, the texts of which are reproduced *infra* (e); sections 255a-255b are covered by sections 22-1115 [6:120] and 22-1116 [6:121] of Title 22 of the District of Columbia Code, the texts of which are reproduced *infra* (g).

⁴ The Memorandum reproduces the texts of sections 10.29 and 10.30 of Title 19 of the Code of Federal Regulations (See *infra* (n)).

advantage be taken of this provision in order to expedite release of the imported material.

Printed matter of any kind issued by a foreign government should be cleared directly with the collector of customs, either as official supplies under the aforementioned provision of the customs regulations (section 10.30 (a)) if intended for use within the mission or other government agency, or, if intended for distribution, under the provisions of paragraph 1629 of the United States Tariff Act which provides, in part, that public documents issued by foreign governments are entitled to free entry. If the printed material is for distribution, a written statement should be handed to the collector of customs to the effect that the books, pamphlets, or other printed matter were issued solely at the instance and expense of the foreign government whereupon the collector of customs will release the merchandise to the consignee without the payment of duty.

Supplies intended for use aboard foreign vessels anchored in United States ports are entitled to admission free of duty under Section 309 of the Tariff Act, and foreign government representatives may clear such merchandise by taking the matter up directly with the appropriate collector of customs.

The free entry privilege accorded by the United States Government includes the importation of all articles not prohibited by law. This includes the bona fide personal or official importation of automobiles which may be sold or traded in on a new car at a later date without the payment of any duties or taxes. Ordinarily, no fee is charged for the clearance through customs of baggage, effects or merchandise of any of the aforementioned classes of privileged individuals.

With regard to material imported by a foreign government for exhibition, the following general rules may prove useful to the diplomatic mission in considering whether or not to send a request to the Department for possible free entry:

- (1) If the articles are intended for sale, they are dutiable regardless of the fact that they may be the property of the foreign government.
- (2) If the articles are not intended for sale but are intended for other commercial use, such as exhibition with a view to interesting prospective American buyers, they are subject to duty unless permanently exhibited on the premises of a foreign government agency such as the diplomatic mission or the consulate.
- (3) Where articles are not intended for commercial use but are exhibited on commercial premises such as a department store or other private business firm, which exhibit promotes the private firm's trade, they will, in most instances be subject to duty.
- (4) Where articles are imported for no commercial purpose and are exhibited on non-commercial premises with the sole view to acquainting residents of the United States with the art, customs or products of the importing country, they are generally accorded free entry under the usages of international courtesy.

Since the United States Department of the Treasury carefully scrutinizes all requests for the admission free of duty of exhibit materials, diplomatic missions, when requesting free entry for imported articles intended for display, should give full details of the importation including the place or places of exhibit, the purpose of the exhibition, the ownership of the property, and furnish a list of the articles to be shown.

Except in cases of imperative emergency, requests should be submitted by note for the attention of the Protocol Staff. Such notes should give full details of the importation including an accurate description of the merchandise, the consignee, bill of lading or immediate transportation entry number, and the purpose for which it is imported. A lack of such information may impede the release of the imported articles. However, in connection with the impending arrival of persons entitled to free entry where time is short, or where the merchandise in customs custody is of a perishable nature, the Department will accept requests for customs clearance by telephone to be followed by a note of confirmation.

III. EXEMPTION FROM INTERNAL TAXATION

A. *Real Property*

1. Property in the District of Columbia owned by foreign governments *and used for embassy or legation purposes* is exempt from general taxes and special taxes on assessments. The payment of water rent is required in all cases, as this is not regarded as a tax but the sale of a commodity. The property must actually be put in use as a diplomatic building in order to gain the exemption and not merely held as a vacant lot. Real property in the District of Columbia is assessed on July 1 of each fiscal year and taxes which have been assessed on that date cannot be remitted for any portion of the fiscal year. Accordingly, before purchasing any property in the District of Columbia, arrangements should be made by the embassy or legation with the seller of the property for the payment of taxes since no exemption or remittance may be made on taxes due for the fiscal year ending on the following June 30 even though such property is used for embassy or legation purposes.

2. The taxation of real property owned by foreign governments and used for consular purposes in the various states is a local matter and, accordingly, each case requires separate consideration. Some localities accord exemption to property owned by a foreign government on the basis of reciprocity, while others accord exemption only on the basis of specific treaty provisions to that effect.

3. The personally-owned real property of a foreign diplomatic or consular officer or employee, whether used for official purposes or for residence, would not be exempt from taxation in the District of Columbia; nor would a house rented by these officials be exempt, since the tax on real property is imposed upon the owner of the property and not upon the tenant.

B. *Personal Property Taxes*

1. At the present time the only personal property tax in the District of Columbia is that which is levied upon individuals or firms engaged in business. There is no tax assessed against the personal or household effects of the ordinary householder. However, should a property owner rent out furnished premises he would be liable for the furnishings thereof since this would constitute being "engaged in business" within the scope of the present District of Columbia Revenue Act. Should a diplomatic officer or employee lease furnished premises to another individual he would be subject to the tax on the furnishings of the leased property since it is the view of the District of Columbia Government that exemption from taxation ceases when the privileged individual engages in business.

2. The revenue laws of the State of Maryland regarding personal property taxes appear to be approximately the same in effect as those in the District of Columbia, i.e., no tax on ordinary personal and household effects unless the owner thereof is engaged in business which requires the use of certain personal property. Should a member of the diplomatic mission be engaged in an outside business venture, he would not be exempt from the payment of the tax levied on the personal property.

3. In Virginia there is a personal property tax on household and other personal effects, but a recent letter received from the State Tax Commissioner indicates that, while there is no specific statutory exemption for members of diplomatic missions, the Virginia Department of Taxation is inclined to take the view that foreign diplomatic officers, as well as the alien non-diplomatic members of the foreign embassies and legations, are entitled to exemption from the State and local taxes on personal property. Other foreign government personnel resident in Virginia would apparently be subject to this tax unless exempted therefrom by treaty provisions.

C. *Federal Excise Taxes*

The latest ruling of the United States Internal Revenue Service (Revenue Ruling 296) dated December 21, 1953, which sets forth the exemptions from Federal excise taxes accorded diplomatic, consular, and other officials and agencies of foreign governments, is set forth below:

Ambassadors, ministers, and other duly accredited diplomatic representatives of foreign governments, together with the members of their families living with them, and members of their households, including attachés, secretaries, and clerks (but not servants), who are not citizens of the United States, nor permanent residents of the United States in an immigrant status, and who are nationals of the country of the diplomatic mission where employed, (1) are not required to pay Federal excise taxes, the legal incidence of which would otherwise fall upon them, and (2) if any such person purchases from the manufacturer thereof an article otherwise subject to a Federal excise tax on sales by manufacturers, or purchases from a retailer an article otherwise subject to a Federal excise tax on sales by retailers, the transaction will not be taxed.

The first classification, that is, Federal excise taxes the legal incidence of which would otherwise fall upon the diplomatic representatives, includes: The taxes on admissions and dues; the tax with respect to safe deposit boxes; the taxes with respect to telegraph, telephone, radio and cable facilities; the tax on the transportation of persons; the tax on the transportation of property; and the documentary stamp taxes relating to the issuance and transfer of shares of stock and corporate securities, and relating also to certain foreign insurance policies, and conveyances of realty sold.

The second classification includes the manufacturers' excise taxes; the retailers' excise taxes; and the tax on the sale or use of diesel fuel.

Consular officers of foreign governments, and other officers (other than diplomatic representatives), as well as agencies and commissions, of foreign governments are not required to pay Federal excise taxes, the legal incidence of which would otherwise fall upon them (the first classification above), in respect of transactions arising in the performance of their official functions for which payment is made by the foreign government. However, it is to be noted that the privileges of this group do not extend to the manufacturers' and retailers' excise taxes (the second classification above).

The foregoing privileges are not dependent upon treaty provisions and apply irrespective of whether there is a treaty in force between the United States and the foreign government relative to its consular officers or other officers, agencies, or commissions.

There are in force a number of treaties between the United States and foreign governments which confer tax exemptions upon consular officers. In general, consular officers are exempted by those treaties from Federal excise taxes, the legal incidence of which would otherwise fall upon them (the first classification above), without regard to whether the transaction is official or personal, but subject to the conditions that the consular officers are not citizens of the United States and are not engaged in professional business, trade, manufacture, or commerce within the United States. It is to be noted, therefore, that under the privileges specified in the preceding paragraphs, consular officers are not required to pay the excise taxes included in the first classification above in respect of official transactions regardless of their citizenship or their professional or business activities, whereas, by virtue of the treaty exemptions, certain consular officers who comply with the conditions as to citizenship and as to professional or business activities are, unless otherwise hereinafter noted, also exempt in respect of personal transactions from the excise taxes included in the first classification above.

Manufacturers' excise taxes are imposed on sales by the manufacturer of many articles including firearms, automobiles, tires and tubes, gasoline and lubricating oil, radio and television sets, phonographs and records, musical instruments, refrigerators, air conditioners, certain sporting goods, electric, gas, and oil appliances, cameras and photographic equipment, fountain pens, mechanical pencils, and cigarette lighters. In order to obtain exemption from the Federal manufacturers' excise tax, the purchase must be made from the manufacturer or a factory branch and not from a retail dealer. If a purchase is made from a retail dealer, no request for a refund of the tax paid will be entertained by the United States Department of the Treasury.

It will be noted from the foregoing that only personnel of the diplomatic missions are entitled to exemption from the Federal manufacturers' tax. The granting of this indirect tax exemption privilege to such personnel is not based on either United States or international law, but is accorded by the United States Government as an act of international courtesy. Consular officers are not so entitled *even under treaty provisions*, since it has been held by the United States Department of the Treasury that tax exemption provisions in treaties apply only where the incidence of the tax falls directly upon the consular officer and does not apply where the tax is on a third person and is merely passed on to the consular official.

Retailers' excise taxes are imposed on sales by the retailer of luggage, including handbags, pocketbooks, and wallets, jewelry, furs, toilet preparations, and diesel fuel for use in diesel-powered highway vehicles. Only personnel of the diplomatic missions are entitled to exemption from the indirect retailers' excise tax as in the case of the manufacturers' excise tax discussed in the preceding paragraph. In this connection, it should be pointed out that the yellow D.C. sales tax card may be used as evidence of exemption of the person whose photograph and signature appear thereon from the Federal excise taxes as well as the District of Columbia sales tax. *This card is, however, valid only in the District of Columbia* since it is primarily issued for the purpose of gaining exemption from the D.C. sales tax. Where

purchases subject to Federal and local excise taxes are made in cities other than Washington, D.C., it is generally necessary to obtain a certificate of exemption (in letter form) from the local excise tax bureau which can be presented to the vendor as evidence of tax exemption.

D. *Sales Taxes*

There is no *Federal* sales tax although many of the States and cities in the United States impose a tax on the retail and/or wholesale sale of commodities and services.

Section 704 of the District of Columbia Sales and Use Tax regulations reads as follows:

“Where the purchaser of tangible personal property is a member of a foreign diplomatic corps and presents an identification card issued by the State Department, exempting such person from excise taxes, such card shall be authority for the vendor not to add reimbursement for the sales tax to the sales price of the property. However, the vendor must show on the record of the sale, the name of the purchaser, the date of sale and the amount thereof.”

District of Columbia sales tax cards are issued at the request of the diplomatic mission to all diplomatic officers and employees of diplomatic missions (excepting servants), who are not engaged in any other occupation for gain in the United States, are not citizens or permanent residents of the United States, and who are nationals of the diplomatic mission where employed. In order for this card to be valid for the purposes for which it is issued, it is necessary for the recipient thereof to attach a personal photograph and countersign the card with his personal signature. These cards are not transferable and may only be used by the person whose signature and photograph appear thereon. Such cards may not be photostated or otherwise reproduced for any purpose. *Cards should be returned immediately to the Department of State upon the termination of the services of all individuals holding them.*

In order to obtain exemption from the District of Columbia Sales and Use Tax on electricity and gas used for household purposes, it is necessary to file with the Potomac Electric Power Company and the Washington Gas Light Company an “Application for Specific Exemption” citing thereon the number of the tax exemption card. These applications may be obtained from the companies. The filing of such forms will eliminate the inclusion of the tax on the bill.

Foreign government agencies are exempted from the payment of the District of Columbia Sales and Use Tax in connection with the purchase of official supplies. Applications for certificates of exemption to be issued to such agencies should be forwarded by the diplomatic missions to the Protocol Staff of the Department of State, together with a statement concerning the basis on which the agencies are considered to be integral parts of the foreign governments.

International organizations are also entitled to exemption from the payment of the District of Columbia Sales and Use Tax on the purchase of official supplies.

The State of Maryland also imposes a sales and use tax on commodities and services. The following provision regarding diplomatic and consular officers is set forth below:

Rule 72. "Ambassadors, ministers and other properly accredited diplomatic representatives of foreign governments to the United States are exempt from the payment of the tax imposed by the law. The exemption does not apply to consular officers or to any officials of foreign governments other than those hereinbefore specified, unless such exemption is warranted by treaties or reciprocal agreements between such governments and the United States.

"However, if ambassadors, ministers or consular officers are engaged in a profession, business, trade, manufacture or commerce, they are subject to the tax in the same manner as other persons who are not ambassadors, ministers or consular officers. In such cases they are required to collect the tax on all sales of tangible personal property from the purchasers thereof, for and on account of the State of Maryland and to pay the tax to their vendors on all purchases of tangible personal property which are not purchased for resale.

"Ambassadors, ministers or consular officers who believe themselves entitled to exemption are required to make application therefor to the Comptroller, submitting with their application copies of the treaty or reciprocal agreement granting similar exemption to United States diplomatic representatives. If the application is approved the Comptroller will furnish the applicant with a letter of exemption. The applicant shall exhibit such letter to his vendor or furnish such vendor with a copy thereof."

From the foregoing it will be seen that accredited diplomatic officers are exempted from the payment of the Maryland sales tax under the usages of international courtesy, but that other foreign government officials are required to pay the tax unless exempted by treaty provision.

Article 42 of the New York City sales tax regulations reads exactly like the Maryland provision set forth above, and in order for a diplomatic or other foreign government official to obtain exemption from this tax it is necessary to first obtain a letter of exemption from the New York City Bureau of Excise Taxes, which is located at 120 West 32nd Street, New York City. The letter of exemption should then be shown to the vendor who will accept it as evidence of tax exemption.

E. *Income Taxes*

The provision regarding exemption from Federal income tax for alien employees of foreign governments and public international organizations is set forth below:

United States Internal Revenue Code of 1954.

Section 893. Compensation of Employees of Foreign Governments or International Organizations.

(a) Rule for Exclusion. Wages, fees, or salary of any employee of a foreign government or of an international organization (including a consular or other officer, or a non-diplomatic representative), received as compensation for official services to such government or international organization shall not be included in gross income and shall be exempt from taxation under this subtitle if:

- (1) Such employee is not a citizen of the United States, * * *; and
- (2) In the case of an employee of a foreign government, the services are of a character similar to those performed by employees of the Government of the United States in foreign countries; and

(3) In the case of an employee of a foreign government, the foreign government grants an equivalent exemption to employees of the Government of the United States performing similar services in such foreign country.

Aliens who have been admitted into the United States as permanent residents and who have filed a waiver of all rights, privileges, exemptions, and immunities under section 247 (b) of the Immigration and Nationality Act are not entitled to the above exemption from income tax unless their right to tax exemption is derived from a treaty or an agreement which is not dependent upon the provisions of the internal revenue laws. Section 247 (b) reads as follows:

“(b) The adjustment of status required by subsection (a) (of section 247 of the Immigration and Nationality Act) shall not be applicable in the case of any alien who requests that he be permitted to retain his status as an immigrant and who, in such form as the Attorney General may require, executes and files with the Attorney General a written waiver of all rights, privileges, exemptions, and immunities under any law or any executive order which would otherwise accrue to him because of the acquisition of an occupational status entitling him to a non-immigrant status under paragraph (15)(A), (15)(E), or (15)(G) of section 101 (a).”

The Department takes this opportunity to emphasize that the exemption provided for in the afore-mentioned section of the Internal Revenue Code is only applicable to “wages, fees, or salary * * * received as compensation for official services.” Accordingly, any compensation received by alien officials, including diplomatic officers, from other sources for services performed in the United States or from investments in this country is taxable. Departing aliens are required by law to appear in person before a Director of Internal Revenue or, if in the New York area, before the Alien Income Tax Branch of the Internal Revenue Service, to obtain certificates that they have complied with all the obligations imposed upon them by the income tax laws. The only exception to this requirement concerns aliens holding diplomatic passports, who are permitted to leave the United States without the necessity of first obtaining such certificates.

In order for foreign government officials not holding diplomatic passports to obtain a certificate of compliance, it is necessary that the diplomatic mission advise the Protocol Staff of the Department of State of the date the foreign government official is leaving the United States, the city at which he wishes to obtain the certificate, and the conditions under which he was compensated while serving in the United States. The Department will request the Internal Revenue Service to exempt all bona fide foreign government officials from the payment of the United States income tax in connection with the compensation received from the foreign government and to issue a certificate of compliance, usually referred to as a “sailing permit”. Where compensation has been received from sources other than the foreign government for services performed in the United States or from investments in this country, the requisite tax on that portion of the remuneration must be paid before the sailing permit can be issued.

All adult members of families of foreign government officials must also appear in person with their passports. If the passport indicates, for example, that a person is the wife of a foreign government official or employee, the

Internal Revenue Service will ask the routine question as to whether or not she has had any earnings from private sources in the United States and, if the answer is in the negative, will issue a certificate of compliance without further assurance from the Embassy or from the Department of State.

The State of Virginia does not expressly provide any exemption from the state income tax for compensation received by aliens from a foreign government. However, on the basis of international courtesy, the Virginia Department of Taxation has decided to exempt such compensation when received by alien officers and employees attached to the diplomatic missions in Washington who reside in Virginia. Other foreign government employees, not having diplomatic immunity, are apparently not being accorded exemption from the state income tax unless there is in force a treaty provision expressly providing therefor.

With regard to the Maryland state income tax, the rule appears to be very similar to that applied in Virginia.

F. *Social Security Taxes*

Employees of a foreign government or a foreign government instrumentality (whether Americans or aliens) are not entitled to benefits of either old-age survivors insurance or unemployment compensation if their compensation is derived from the funds of a foreign government. The Social Security Act contains a provision that services performed in the employ of a foreign government (including service as a consular or other officer or employee or a non-diplomatic representative) is excluded from coverage under Title II of the Social Security Act.

However, American or alien employees of a diplomatic, consular, or other foreign government official, who are paid from the *personal* funds of such foreign government official are entitled to the benefits of both unemployment compensation and old-age survivors insurance.

G. *Estate and Inheritance Taxes*

The Federal Estate Tax. Upon the death of a foreign diplomatic representative duly accredited to the United States, who at that time was neither domiciled in nor a citizen of the United States, the Federal estate tax is not applied to personal property used by him in the conduct of his official mission and reasonably required for that purpose. This exemption, however, does not extend to personal property not so used (such as bonds, shares of corporate stock and other investment property) or to real property situated in the United States, nor does it extend to the estates of deceased consular officers.

The District of Columbia Inheritance Tax. The District of Columbia holds that there can be no exemption from payment of the local inheritance tax in view of the fact that this type of tax is levied upon the beneficiary of the estate of the deceased diplomat and not upon the diplomat himself or his estate.

H. *Automobile License Plates and Driving Permits*

In the District of Columbia and the State of Virginia, diplomatic officers are granted diplomatic license plates without the payment of any taxes or fees. The State of Maryland does not issue DPL plates, but the District of Columbia Government will issue D.C. DPL plates to diplomatic officers residing in Maryland who may give the address of the Embassy when

applying for license plates. In the District of Columbia government-owned cars for the use of diplomatic missions are entitled to free DPL plates.

The non-diplomatic personnel of the embassies and legations residing in Washington must obtain and pay for D.C. license plates with the exception of those countries with which the United States has treaties exempting such personnel from the payment of taxes and fees in connection with the use of a personally-owned automobile. The non-diplomatic staff of the diplomatic missions residing in Maryland must secure Maryland license plates. These plates will be issued free of charge upon first obtaining a certificate of status from the Protocol Staff of the Department of State, addressed to the Maryland Bureau of Motor Vehicles. However, the Maryland State excise tax will have to be paid.

Non-diplomatic personnel attached to the diplomatic missions, who reside in Virginia, should obtain and pay for Virginia license plates, unless exempted therefrom by treaty provision, in which case the Department of State will request exemption of the appropriate authorities of the State of Virginia.

It is the practice of some of the states to grant exemption from charges for registration and license plates to consular officers on the basis of reciprocity. Information concerning all of the states is not available. However, the pertinent provisions of the New York and California traffic laws are set forth below.

NEW YORK

Paragraph *b* of subdivision 6 of Section 11 of the Vehicle and Traffic Law provides that payment of registration fees shall not apply to

“ * * * motor vehicles owned by professional foreign consuls-general, consuls and vice consuls, who are nationals of the state appointing them and who are assigned to foreign consulates in the state of New York, provided that American professional consular officers of equal rank who are citizens of the United States and who exercise their official functions at American consulates in such foreign country, are granted reciprocal exemption, * * *”.

CALIFORNIA

Section 374 of the Vehicle Code, entitled “ Exemptions from Registration Fees,” reads as follows:

“ (a) The fees specified in this code except fees for duplicate license plates, certificates or cards need not be paid for any vehicle of a type subject to registration hereunder owned by any foreign government or by a consul or other official representative thereof * * *”.

Diplomatic officers of the embassies and legations may obtain free driving permits stamped “ diplomatic ” in the District of Columbia and Virginia. Non-diplomatic personnel attached to the diplomatic missions obtain regular permits and pay the same fee as do American citizens. Since there is no provision in Maryland for the issuance of diplomatic driving permits, it is suggested that diplomatic officers residing in Maryland obtain District of Columbia diplomatic driving licenses. The non-diplomatic personnel should obtain ordinary Maryland driving licenses.

MISCELLANEOUS

Diplomatic representatives, their families, and the members of their staffs, including employees of embassies and legations, and consular officers

stationed throughout the United States and members of their families and staffs are exempt from the payment of the head tax when entering the United States.

Officials of foreign governments who are not American citizens are exempt from the Virginia capitation tax.

There is no Federal installation or licensing tax levied on radio or television receiving apparatus in the United States.

By an order dated July 8, 1921, the Collector of Taxes of the District of Columbia was authorized to issue dog licenses without charge to foreign diplomatic officers. At the present time, this privilege is also accorded to the alien non-diplomatic personnel of foreign missions when they produce a certification bearing the seal of the diplomatic mission endorsed by the Protocol Staff of the Department of State.

Hunting licenses. The District of Columbia issues no hunting or fishing licenses. When fishing on the banks of the Potomac River, permission must be obtained from the State concerned. The laws of the contiguous States of Maryland and Virginia do not provide any exemption from the State fees for hunting and fishing licenses issued to diplomatic or other foreign government officials; nor do the laws of the States of New York and Pennsylvania, where payment of the fees is required in order for diplomatic personnel to obtain hunting and fishing licenses.

(b) PRIVILEGES AND IMMUNITIES ¹

210 INTRODUCTION

The provisions on privileges and immunities contained in chapter 200 are divided into three categories (1) immunities; (2) customs courtesies and free entry privileges; and (3) tax exemptions. Because most privileges and immunities, especially customs courtesies, free entry privileges, and tax exemptions, are based on reciprocity between the United States and other nations, and because it is the responsibility of the Foreign Service to attempt by representation to correct any discrepancy between the privileges and immunities which they enjoy and those granted to foreign representatives by the United States, two subchapters are devoted to each of the three categories to facilitate easy reference and comparison. Thus, the first subchapter on immunities (220) deals with, "Immunities of United States Representatives Abroad" ² while the second subchapter on immunities (230) covers, "Immunities of Foreign Representatives in the United States".

230 IMMUNITIES OF FOREIGN REPRESENTATIVES IN THE UNITED STATES

231 *Foreign Diplomatic Personnel and Establishments*

231.1 *Civil and Criminal Jurisdiction*

Foreign diplomatic personnel accredited to the United States and members of their suites notified to and received by the Department are immune from arrest or imprisonment, and their goods and chattels may not be distrained, seized, or attached. Any person who sues out a process against

¹ U.S. Foreign Service Manual, Vol. I, Part. I, Section 200.

² This subchapter is not reproduced in the present collection.

such diplomatic officers or members of their suite, or against their goods and chattels, or who assaults a diplomatic officer is liable to fine and imprisonment (22 U.S.C. 252-254).

231.2 *American Nationals Employed by Foreign Missions*

The immunities listed in 1 FSM I 231.1 are applicable to citizens or inhabitants of the United States notified to and accepted by the Department who are in the service of a diplomatic mission, except that such persons are not immune from suit on a debt contracted prior to such employment by a foreign mission.

231.3 *Inviolability of Diplomatic Premises*

Except in cases of public emergency, such as a fire or other disaster, the premises of foreign diplomatic missions in the United States are considered inviolable. An act of February 15, 1938, prohibits the display of any placard or device designed to intimidate or ridicule any foreign government, its officers or representatives, its political or economic acts, or its views and purposes nearer than 500 feet of the diplomatic establishment. It further prohibits the congregation of persons within 500 feet of the premises of a mission for such purposes. However, this legal prohibition against congregation and display does not forbid legitimate picketing which arises out of a bona fide labor dispute regarding the alterations, repair, or construction of buildings occupied by foreign representatives.

232 *Foreign Consular Personnel and Establishments*

232.1 *Consular Personnel*

Rights and immunities of foreign consular personnel in the United States generally are derived from treaties between the United States and each country concerned. However, in actual practice, foreign consular representatives in the United States enjoy only immunity with respect to their official acts. Generally, consular officers are subject to process of local courts. They are entitled to show as a defense that the act which is the subject matter of the suit was performed in an official capacity. Consular officers and employees who are nationals of the sending state are entitled to be treated with courtesy and respect with regard to arrest or prosecution for acts performed otherwise than in their official capacity. Consular officers and employees may be required to give testimony in either a civil or criminal court case providing such testimony does not entail producing documents from their archives or giving evidence relating to their official duties. United States' authorities and courts requesting such testimony are enjoined to take all reasonable steps to avoid interference with the performance of a consul's official duties.

232.2 *Exemption from Military and Other Public Service*

A consular officer or employee who is not a national of the United States, who is not engaged in private occupation for gain, and who was not normally a resident of the United States at the time he was appointed to the consulate ordinarily enjoys exemption from military, naval, air, police, administrative, or jury service of every kind.

232.3 *Inviolability of Consular Archives*

The archives of foreign consular establishments in the United States are inviolable from search or seizure by local or Federal authorities.

250 CUSTOMS PRIVILEGES ENJOYED BY FOREIGN REPRESENTATIVES IN THE UNITED STATES

251 *Entry of Baggage on Arrival in the United States*

251.1 *Free Entry for All Foreign Representatives*

Upon application to the Department of State and appropriate instructions from the Treasury Department in each instance, the privilege of admission free of duty is extended to the baggage and effects of foreign diplomatic and consular officers and employees, high commissioners, trade representatives, other high officials of foreign governments, and such distinguished foreign visitors as may be designated by the Department of State including their families, suites, and servants. Such privileges are, however, based on, and subject to, strict reciprocity on the part of foreign governments and may be modified or changed if foreign governments do not accord like privileges to American representatives abroad.

251.2 *Entry Expedited*

Customs officials of the United States are enjoined against detaining or inconveniencing foreign diplomatic officers accredited to the United States (members of embassies and legations) or to certain public international organizations (the United Nations, the Organization of American States, and the Standing Group of the North Atlantic Treaty Organization). It should be pointed out in this regard that the mere possession of a diplomatic passport (which is issued primarily for immigration purposes) is not sufficient in and of itself to identify a foreign official as a diplomatic officer. Customs officers have been instructed to look further at the credentials of alien officials before according full diplomatic treatment in view of the fact it is common knowledge that certain countries issue diplomatic passports to nationals of their countries who are not diplomatic officers.

252 *Importation of Articles for Official Use*

Costumes, regalia, and other articles, including office supplies and equipment, for the official use of members and attachés of foreign embassies and legations, consular officers, and other representatives of foreign governments, are accorded free entry under the usages of international courtesy, provided that the country which any such person represents accords like privileges to corresponding officials of the United States.

253 *Packages Containing Official Documents*

Packages bearing the official seal of a foreign government with which the United States has diplomatic relations, accompanied by certificates under such seal to the effect that they contain only official communications and documents, are admitted free of duty without customs examinations.

254 *Free Admission for Articles Imported for Exhibition Purposes*

Importation of articles of foreign countries, if they are to form part of an exhibit in a diplomatic mission or consulate, may also be admitted free

of duty, upon proper request by the foreign mission in Washington to the Chief of Protocol, Department of State, provided that they are not intended for sale or commercial distribution.

255 *Importation of Articles for Personal Use*

255.1 *General*

The privilege of importing free of duty articles for their personal or family use during their official residence in the United States is accorded to all foreign diplomatic officers of the embassies and legations in Washington and the three public international organizations mentioned in 1 FSM I 251.2. This privilege may also be accorded to other foreign representatives and to employees of foreign governments under special agreements between the United States and the countries which they represent. Free entry privileges in the United States are accorded unconditionally in that any articles (including automobiles) which have been imported may be later sold at any time without the payment of customs duties, nor is there any quota system in effect in the United States. The procedure for obtaining the release from the customs authorities is by note from the mission concerned to the Chief of Protocol of the Department of State in each instance.

255.2 *Customs Examination*

Articles which are sent through the mails and addressed to ambassadors, ministers, or *chargés d'affaires* representing foreign governments in the United States, and which are intended for their personal use, are delivered to the addressee without submission to customs officers for inspection. Sealed and unsealed articles addressed to foreign representatives other than chiefs of missions are subjected to the usual customs inspection as are articles addressed to chiefs of mission which arrive in any manner other than mail.

270 TAX EXEMPTIONS GRANTED BY UNITED STATES TO FOREIGN REPRESENTATIVES

271 *Property Owned by Foreign Governments*

271.1 *Real Property in the District of Columbia*

Property in the District of Columbia owned by foreign governments and used for embassy or legation purposes is exempt from general taxes and special taxes on assessments. The property must actually be used for embassy or legation purposes in order to gain the exemption and not merely be held as a vacant lot. Real property in the District of Columbia is assessed on July 1 of each fiscal year and taxes which have been assessed on that date cannot be remitted for any portion of the fiscal year. The payment of water rent is required in all cases, as this is not regarded as a tax, but the sale of a commodity.

271.2 *Real Property Outside the District of Columbia*

The taxation of real property owned by foreign governments and used for consular or other purposes in the various States is a local matter and, accordingly, each case requires separate consideration. Some localities accord exemption to property owned by a foreign government on the basis

of reciprocity, while others accord exemption only on the basis of specific treaty provisions to that effect. Should a case arise in regard to the taxation of real property owned by a foreign government in one of the several States, the Department would communicate with appropriate authorities of the State concerned and request that, as a matter of international comity, treatment be extended similar to that accorded by the foreign government concerned to our property abroad.

271.3 *Automobiles Owned by Foreign Governments in the District of Columbia*

271.31 *Automobiles Used by Diplomatic and Consular Offices*

Registration fees and taxes are not imposed on automobiles owned by foreign governments which are used by diplomatic and consular offices in the District of Columbia, free license plates being issued for such cars.

271.32 *Automobiles Used by Foreign Government Agencies Other Than Diplomatic or Consular Offices*

No registration fees or taxes are imposed on automobiles owned by foreign governments and used by agencies other than diplomatic or consular offices, but a charge is made in this case for license plates.

272 *Real and Personal Property Owned by Foreign Representatives*

272.1 *Personally Owned Real Property in the District of Columbia*

The personally owned real property of a foreign diplomatic or consular officer or employee, whether used for official purposes or for residence, is subject to taxation in the District of Columbia. A house, owned by such officials, but rented out, is also subject to taxation, since the tax on real property is imposed upon the owner of the property and not upon the tenant.

272.2 *Personal Property Taxes*

272.21 *Personal Property Tax in the District of Columbia*

At the present time the only personal property tax in the District of Columbia is that which is levied upon individuals or firms engaged in business. There is no tax assessed against the personal or household effects of the ordinary householder. However, should a property owner rent out furnished premises he would be liable for the furnishings thereof since this would constitute being "engaged in business" within the scope of the present District of Columbia Revenue Act. Should a diplomatic officer or employee lease furnished premises to another individual he would be subject to the tax on the furnishings of the leased property since it is the view of the District of Columbia Government that exemption from taxation ceases when the privileged individual engages in business.

272.22 *Personal Property Tax in the State of Maryland*

The revenue laws of the State of Maryland regarding personal property taxes appear to be approximately the same in effect as those in the District of Columbia, i.e., no tax on ordinary personal and household effects unless the owner thereof is engaged in business which requires the use of certain personal property. Should a member of the diplomatic mission be engaged in an outside business venture, he would not be exempt from the payment of the tax levied on the personal property.

272.23 *Personal Property Tax in the State of Virginia*

In Virginia there is a personal property tax on household and other personal effects, but on the basis of information received from the State Tax Commissioner it is indicated that, while there is no specific statutory exemption for members of diplomatic missions, the Virginia Department of Taxation is inclined to take the view that foreign diplomatic officers, as well as the alien non-diplomatic members of the foreign embassies and legations, are entitled to exemption from the State and local taxes on personal property. Other foreign government personnel resident in Virginia would apparently be subject to this tax unless exempted therefrom by treaty provisions.

272.3 *Automobile Taxes and Fees in the District of Columbia*

272.31 *Existing Taxes and Fees on Automobiles*

The following taxes and fees on automobiles are in effect in the District of Columbia: (a) Fees for registration; (b) Fees for drivers' licenses; (c) Excise tax on automobile titles.

272.32 *Foreign Representatives Exempt With Certain Exceptions*

Diplomatic officers and consular officers attached to the diplomatic missions residing in the District are exempt from all the taxes and fees mentioned in 1 FSM I 272.31. Unless exempted by treaty provision, clerks and employees are required to pay the fees indicated in 1 FSM I 272.31a and b, but they are exempt from the taxes set forth in 1 FSM I 272.31c.

272.33 *No Additional Taxes or Fees When Entering Other States*

Automobiles bearing District of Columbia tags are permitted to enter or pass through the several States without obtaining additional tags or paying any special taxes or fees.

272.4 *Automobile Taxes and Fees in the Various States*

272.41 It is the practice of some of the States to grant exemption from charges for registration and license plates to consular officers on the basis of reciprocity. The fees and taxes for automobiles and other property to be charged foreign consuls in the several States of the United States, in the absence of applicable treaty provisions, are subject to regulation by each State in which a consular office is located.

272.42 Information concerning all the States is not readily available; however, the State of New York has informed the Department that foreign consular officers in that State are exempt from registration fees in accordance with section 11 (6) (b) of the Vehicle and Traffic Law, which reads in part as follows:

“The provisions of this article with respect to the payment of registration fees shall not apply . . . to motor vehicles owned by professional foreign consuls-general, consuls, and vice-consuls, who are nationals of the State appointing them and who are assigned to foreign consulates in the State of New York, provided that American professional consular officers of equal rank who are citizens of the United States and who exercise their official functions at American consulates in such foreign country, are granted reciprocal exemption . . .”.

273 *Social Security Taxes*

All foreign diplomatic and consular officers and employees assigned to the United States and paid by foreign governments are excluded from the benefits of, and exempt from the taxes levied under, the Social Security system.

274 *Federal Excise Taxes*274.1 *Diplomatic Exemption From Certain Types of Excise Taxes*274.11 *Members of Diplomatic Missions Exempt*

Foreign ambassadors, ministers, and other duly accredited diplomatic representatives of foreign governments, together with the members of their families living with them, and members of their staffs, including attachés, secretaries, and clerks (but not servants), who are not citizens of the United States, nor permanent residents of the United States in an immigrant status, and who are nationals of the country of the diplomatic mission where employed, are not required to pay Federal excise taxes, the legal incidence of which would otherwise fall upon them, regardless of whether the transaction is official or personal.

274.12 *Kinds of Taxes Included in Exemption*

This category of excise taxes includes: taxes on admissions and dues under chapter 33 of the Internal Revenue Code; the tax on safe deposit boxes under chapter 33 of the code; the taxes on telegraph, telephone, radio, and cable facilities under chapter 33 of the code; the tax on transportation of persons under chapter 33 of the code; the tax on transportation of property under chapter 33; and the documentary stamp taxes relating to the issuance and transfer of shares of stock and corporate securities and relating also to certain foreign insurance policies, passage tickets, and conveyance of realty sold, imposed under chapter 34 of the code.

274.2 *Diplomatic Exemption From Manufacturers' and Retailers' Excise Tax*274.21 *Necessity of Purchasing From Manufacturer*

The categories of diplomatic representatives and their staffs, as listed in 1 FSM I 274.11, are also exempt from the payment of manufacturers' and retailers' excise taxes, regardless of whether the articles are purchased for official or personal use. However, to obtain exemption from the manufacturers' tax, diplomatic officers and members of their staffs must purchase such articles direct from the manufacturer or factory branch, and not from a dealer or retailer.

274.22 *Articles to Which Manufacturers' Excise Tax Applies*

Manufacturers' excise taxes are imposed on sales by the manufacturer of many articles, including firearms, automobiles, tires and tubes, gasoline and lubricating oil, radio and television sets, phonographs and records, musical instruments, refrigerators, air conditioners, certain sporting goods, electric, gas, and oil appliances, cameras and photographic equipment, fountain pens, mechanical pencils, and cigarette lighters.

274.23 *Federal Tax on Gasoline and Oil*

The Federal tax on gasoline and lubricating oil is also a manufacturers' excise tax. Exemptions may be obtained only when persons entitled to such

exemption purchase the gasoline and oil from a manufacturer, producer, or importer. Diplomatic officers and employees and consular officers attached to the diplomatic missions in the District of Columbia are exempt from the District tax on gasoline when it is purchased from a producer or importer. There is no District tax on lubricating oil. A number of the States grant exemption from State gasoline taxes to diplomatic and consular officers on the basis of reciprocity.

274.24 *Retailers' Excise Tax on Sale of Certain Articles*

Retailers' excise taxes are imposed on sales by the retailer of a number of articles including luggage, handbags, pocketbooks, wallets, jewelry, furs, toilet preparations, and diesel fuel for use in diesel-powered highway vehicles. Only personnel of the diplomatic missions are entitled to exemption from the indirect retailers' excise tax as in the case of the manufacturers' excise case discussed in the preceding sections.

274.3 *Exemption of Other Foreign Representatives*

274.31 *Official Transactions*

Consular officers of foreign governments and other officers (other than members of diplomatic missions), as well as agencies and commissions of foreign governments, are not required to pay Federal excise taxes, the legal incidence of which would otherwise fall upon them (see 1 FSM I 274.12 for definition of this type of excise tax) with respect to transactions arising in the performance of their official functions for which payment is made by the foreign government itself. This exemption is not dependent on treaty provisions and applies irrespective of whether there is a treaty in force between the United States and the foreign government relative to its consular officers or other officers, agencies, or commissions.

274.32 *Personal Transactions*

A number of treaties are in force between the United States and foreign governments which confer tax exemptions upon consular officers with regard to personal transactions. In general, consular officers are exempted by these treaties from Federal excise taxes, the legal incidence of which would otherwise fall upon them (see 1 FSM I 274.12 for definition of this type of excise tax), without regard to whether the transaction is official or personal, but subject to the condition that the consular officers are not citizens of the United States and are not engaged in professional, business, trade, manufacture, or commerce within the United States.

274.33 *Manufacturers' or Retailers' Excise Taxes*

The exemption from the manufacturers' and retailers' excise taxes described in 1 FSM I 274.2 does not extend to consular officers and other foreign representatives, even under treaty provisions according tax exemptions, since the Treasury Department holds that such provisions relate only to "direct" taxes, i.e., taxes the legal incidence of which falls upon the consular or other representative.

275 *Retail Sales Taxes and Other Special Local Taxes*

275.1 *Federal Sales Tax*

At the present time there is no Federal sales tax, although many of the States and cities in the United States impose a tax on the retail and or wholesale sale of commodities and services.

275.2 *District of Columbia Sales and Use Tax*

Section 704 of the District of Columbia Sales and Use Tax Regulations reads as follows:

“Where the purchaser of tangible personal property is a member of a foreign diplomatic corps and presents an identification card issued by the State Department, exempting such person from excise taxes, such card shall be authority for the vendor not to add reimbursement for the sales tax to the sales price of the property. However the vendor must show on the record of the sale the name of the purchaser, the date of sale and the amount thereof.”

District of Columbia sales tax cards are issued at the request of the diplomatic mission to all diplomatic officers and employees of diplomatic missions (excepting servants), who are not engaged in any other occupation for gain in the United States, are not citizens or permanent residents of the United States, and who are nationals of the diplomatic mission where employed. Foreign government agencies and international organizations are also exempted from the payment of the District of Columbia sales and use tax in connection with the purchase of official supplies.

275.3 *Maryland Sales and Use Tax*

The State of Maryland also imposes a sales and use tax on commodities and services. The provision regarding diplomatic and consular officers is set forth below.

“Rule 72. Ambassadors, ministers and other properly accredited diplomatic representatives of foreign governments to the United States are exempt from the payment of the tax imposed by the law. The exemption does not apply to consular officers or to any officials of foreign governments other than those hereinbefore specified, unless such exemption is warranted by treaties or reciprocal agreements between such governments and the United States.

“However, if ambassadors, ministers or consular officers are engaged in a profession, business, trade, manufacture or commerce, they are subject to the tax in the same manner as other persons who are not ambassadors, ministers or consular officers. In such cases they are required to collect the tax on all sales of tangible personal property from the purchasers thereof, for and on account of the State of Maryland and to pay the tax to their vendors on all purchases of tangible personal property which are not purchased for resale.

“Ambassadors, ministers or consular officers who believe themselves entitled to exemption are required to make application therefor to the Comptroller, submitting with their application copies of the treaty or reciprocal agreement granting similar exemption to United States diplomatic representatives. If the application is approved the Comptroller will furnish the applicant with a letter of exemption. The applicant shall exhibit such letter to his vendor or furnish such vendor with a copy thereof.”

From the foregoing it will be seen that accredited diplomatic officers are exempted from the payment of the Maryland sales tax under the usages of international courtesy, but that other foreign government officials are required to pay the tax unless exempted by treaty provision.

275.4 *Sales Tax in the State of New York*

Article 42 of the New York City Sales Tax Regulations exactly corresponds to the Maryland provision set forth above.

276 *Estate and Inheritance Taxes*

276.1 *The Federal Estate Tax*

Upon the death of a foreign diplomatic representative duly accredited to the United States, who at that time was neither domiciled in nor a citizen of the United States, the Federal estate tax is not applied to personal property used by him in the conduct of his official mission and reasonably required for that purpose. This exemption, however, does not extend to personal property not so used (such as bonds, shares of corporate stock and other investment property) or to real property situated in the United States, not does it extend to the estates of deceased consular officers.

276.2 *The District of Columbia Inheritance Tax*

The District of Columbia holds that there can be no exemption from payment of the local inheritance tax in view of the fact that this type of tax is levied upon the beneficiary of the estate of the deceased diplomat and not upon the diplomat himself or his estate.

277 *Federal Income Taxes*

The wages, fees, or salary of an employee of a foreign government including a consular or other officer or a non-diplomatic representative, or an employee of an international organization, received as compensation for official service to such government or international organization are exempt from Federal income tax provided that:

- (a) Such employee is not a citizen of the United States ;
- (b) Such services are of a character similar to those performed by employees of the Government of the United States in foreign countries;
- (c) The foreign government whose employee is claiming exemption grants an equivalent exemption to employees of the Government of the United States performing similar services in such foreign country; and
- (d) Such employee is not an alien who has been admitted into the United States as a permanent resident and who, in this connection, has filed a waiver of all rights, privileges, and immunities under section 247(b) of the Immigration and Nationality Act.

278 *Miscellaneous Federal and Local Taxes*

278.1 *Federal Installation or Licensing Tax on Radios*

There is no Federal installation or licensing tax levied on radio or television receivers in the United States.

278.2 *Tax on Dog Licenses in the District of Columbia*

By order dated July 8, 1921, the Collector of Taxes of the District of Columbia is authorized to issue dog licenses to foreign diplomatic officers without charge.

278.3 *Head Tax*

Diplomatic representatives, their families, members of their staffs, including employees of embassies and legations, consular officers stationed throughout the United States, and members of their families and staffs are exempt from the payment of the head tax when entering the United States.

278.4 *Capitation Tax (Poll Tax) in State of Virginia*

Officials of foreign governments who are not American citizens are exempt from the Virginia Capitation Tax (Poll Tax).

(c) CONSTITUTION OF THE UNITED STATES OF AMERICA

. . . .

Article II

. . . .

Section 3. . . . [The President] shall receive ambassadors and other public ministers . . .

. . . .

Article III

. . . .

Section 2. The judicial power shall extend . . . to all cases affecting ambassadors, other public ministers and consuls . . .

In all cases affecting ambassadors, other public ministers and consuls, . . . the Supreme Court shall have original jurisdiction . . .

(d) JUDICIARY AND JUDICIAL PROCEDURE ¹

. . . .

PART IV. JURISDICTIONS AND VENUE

*Chapter 81. Supreme Court*Section 1251. *Original jurisdiction*

(a) The Supreme Court shall have original and exclusive jurisdiction of:

. . . .

(2) All actions or proceedings against ambassadors or other public ministers of foreign states or their domestics or domestic servants, not inconsistent with the law of nations.

(b) The Supreme Court shall have original but not exclusive jurisdiction of:

(1) All actions or proceedings brought by ambassadors or other public ministers of foreign states or to which consuls or vice consuls of foreign states are parties;

. . . .

Section 1351. *Consuls and vice consuls as defendants*

The district courts shall have original jurisdiction, exclusive of the courts of the States, of all actions and proceedings against consuls or vice consuls

¹ *United States Code*, Title 28, 1952 Edition, pp. 4179 *et seq.*

of foreign states. (June 25, 1948, ch. 646, sec. 1, 62 Stat. 934; May 24, 1949, ch. 139, sec. 80 (c), 63 Stat. 101.)

(e) CRIMES AND CRIMINAL PROCEDURE ¹

PART I. CRIMES

Chapter 7. Assault

Section 112. *Assaulting public minister*

Whoever assaults, strikes, wounds, imprisons, or offers violence to the person of an ambassador or other public minister, in violation of the law of nations, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

Whoever, in the commission of any such acts, uses a deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, sec. 1, 62 Stat. 688.)

Chapter 43. *False Personation*

Section 915. *Foreign diplomats, consuls or officers*

Whoever, with intent to defraud within the United States, falsely assumes or pretends to be a diplomatic, consular or other official of a foreign government duly accredited as such to the United States and acts as such, or in such pretended character, demands or obtains or attempts to obtain any money, paper, document, or other thing of value, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, sec. 1, 62 Stat. 743.)

Chapter 45. *Foreign Relations*

Section 951. *Agents of foreign governments*

Whoever, other than a diplomatic or consular officer or attaché, acts in the United States as an agent of a foreign government without prior notification to the Secretary of State, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, sec. 1, 62 Stat. 743.)

Section 952. *Diplomatic codes and correspondence*

Whoever, by virtue of his employment by the United States, obtains from another or has or has had custody of or access to, any official diplomatic code or any matter prepared in any such code, or which purports to have been prepared in any such code, and without authorization or competent authority, willfully publishes or furnishes to another any such code or matter, or any matter which was obtained while in the process of transmission between any foreign government and its diplomatic mission in the

¹ *United States Code*, Title 18, 1952 Edition, pp. 2330 *et seq.*

United States, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, sec. 1, 62 Stat. 743.)

. . . .
Chapter 75. *Passports and Visas*
. . . .

Section 1545. *Safe conduct violation*

Whoever violates any safe conduct or passport duly obtained and issued under authority of the United States shall be fined not more than \$2,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, sec. 1, 62 Stat. 771.)

. . . .
(f) FOREIGN RELATIONS AND INTERCOURSE ¹
. . . .

Chapter 4. *Passports*
. . . .

Section 215. *Fees for visé of alien's passport*

There shall be collected and paid into the Treasury of the United States quarterly a fee of \$1 for executing each application of an alien for a visé and \$9 for each visé of the passport of an alien: *Provided*, That no fee shall be collected from any officer of any foreign Government, or members of his immediate family, its armed forces, or of any State, district, or municipality thereof, traveling to or through the United States. (June 4, 1920, ch. 223, sec. 2, 41 Stat. 750.)

. . . .
Chapter 6. *Foreign Diplomatic and Consular Officers*
. . . .

Section 252. *Suits against ministers and their domestics prohibited*

Whenever any writ or process is sued out or prosecuted by any person in any court of the United States, or of a State, or by any judge or justice whereby the person of any ambassador or public minister of any foreign prince or State, authorized and received as such by the President, or any domestic or domestic servant of any such minister, is arrested or imprisoned, or his goods or chattels are distrained, seized, or attached, such writ or process shall be deemed void. (R.S. sec. 4063.)

Section 253. *Penalty for wrongful suit*

Whenever any writ or process is sued out in violation of section 252 of this title, every person by whom the same is obtained or prosecuted, whether as party or as attorney or solicitor, and every officer concerned in executing it, shall be deemed a violator of the laws of nations and a disturber of the public repose, and shall be imprisoned for not more than three years, and fined at the discretion of the court. (R.S. sec. 4064.)

¹ *United States Code*, Title 22, 1952 Edition, pp. 2875 *et seq.*

Section 254. *Exceptions as to suits against servants, etc., of minister; listing servants*

Sections 252 and 253 of this title shall not apply to any case where the person against whom the process is issued is a citizen or inhabitant of the United States in the service of an ambassador or a public minister, and the process is founded upon a debt contracted before he entered upon such service; nor shall section 253 of this title apply to any case where the person against whom the process is issued is a domestic servant of an ambassador or a public minister, unless the name of the servant has, before the issuing thereof, been registered in the Department of State, and transmitted by the Secretary of State to the marshal of the District of Columbia, who shall upon receipt thereof post the same in some public place in his office. All persons shall have resort to the list of names so posted in the marshal's office, and may take copies without fee. (R.S. sections 4065, 4066.)

Section 256. *Jurisdiction of consular officers in disputes between seamen*

Whenever it is stipulated by treaty or convention between the United States and any foreign nation that the consul general, consuls, vice-consuls, or consular or commercial agents of each nation, shall have exclusive jurisdiction of controversies, difficulties, or disorders arising at sea or in the waters or ports of the other nation, between the master or officers and any of the crew, or between any of the crew themselves, of any vessel belonging to the nation represented by such consular officer, such stipulations shall be executed and enforced within the jurisdiction of the United States as in sections 257 and 258 of this title. But before this section shall take effect as to the vessels of any particular nation having such treaty with the United States, the President shall be satisfied that similar provisions have been made for the execution of such treaty by the other contracting party, and shall issue his proclamation to that effect, declaring this section to be in force as to such nation. (R.S. sec. 4079.)

Section 257. *Arrest of seamen; procedure generally*

In all cases within the purview of section 256 of this title the consul general, consul, or other consular or commercial authority of such foreign nation charged with the appropriate duty in the particular case, may make application to any court of record of the United States, or to any judge thereof, or to any United States commissioner, setting forth that such controversy, difficulty, or disorder has arisen, briefly stating the nature thereof, and when and where the same occurred, and exhibiting a certified copy or extract of the shipping articles, roll, or other proper paper of the vessel, to the effect that the person in question is of the crew or ship's company of such vessel; and further stating and certifying that such person has withdrawn himself, or is believed to be about to withdraw himself, from the control and discipline of the master and officers of the vessel or that he has refused, or is about to refuse, to submit to and obey the lawful jurisdiction of such consular or commercial authority in the premises; and further stating and certifying that, to the best of the knowledge and belief of the officer certifying, such person is not a citizen of the United States. Such application shall be in writing and duly authenticated by the consular or other sufficient official seal. Thereupon such court, judge, or commissioner shall

issue his warrant for the arrest of the person so complained of, directed to the marshal of the United States for the appropriate district, or in his discretion to any person, being a citizen of the United States, whom he may specially depute for the purpose, requiring such person to be brought before him for examination at a certain time and place. (R.S. sec. 4080; May 28, 1896, ch. 252, sec. 19, 29 Stat. 184; Mar. 2, 1901, ch. 814, 31 Stat. 956.)

Section 258. *Commitment and discharge*

If, on such examination, it is made to appear that the person so arrested is a citizen of the United States, he shall be forthwith discharged from arrest, and shall be left to the ordinary course of law. But if this is not made to appear, and such court, judge, or commissioner finds, upon the papers referred to in section 257 of this title, a sufficient prima facie case that the matter concerns only the internal order and discipline of such foreign vessel, or, whether in its nature civil or criminal, does not affect directly the execution of the laws of the United States, or the rights and duties of any citizen of the United States, he shall forthwith, by his warrant, commit such person to prison, where prisoners under sentence of a court of the United States may be lawfully committed, or, in his discretion, to the master or chief officer of such foreign vessel, to be subject to the lawful orders, control, and discipline of such master or chief officer, and to the jurisdiction of the consular or commercial authority of the nation to which such vessel belongs, to the exclusion of any authority or jurisdiction in the premises of the United States or any State thereof. No person shall be detained more than two months after his arrest, but at the end of that time shall be set at liberty and shall not again be arrested for the same cause. The expenses of the arrest and the detention of the person so arrested shall be paid by the consular officers making the application: *Provided*, That nothing in this section or section 257 of this title shall authorize the arrest or imprisonment of officers and seamen deserting or charged with desertion from merchant vessels of foreign nations in the United States and Territories and possessions thereof, and the cooperation, aid, and protection of competent legal authorities in effecting such arrest or imprisonment. (R.S. sec. 4081; Mar. 4, 1915, ch. 153, sections 16, 17, 38 Stat. 1184.)

Section 258a. *Enforcement of awards of foreign consuls*

The district courts and the United States commissioners shall have power to carry into effect, according to the true intent and meaning thereof, the award or arbitration or decree of any consul, vice consul, or commercial agent of any foreign nation, made or rendered by virtue of authority conferred on him as such consul, vice consul, or commercial agent, to sit as judge or arbitrator in such differences as may arise between the captains and crews of the vessels belonging to the nation whose interests are committed to his charge, application for the exercise of such power being first made to such court or commissioner, by petition of such consul, vice consul, or commercial agent. And said courts and commissioners may issue all proper remedial process, mesne and final, to carry into full effect such award, arbitration, or decree, and to enforce obedience thereto by imprisonment in the jail or other place of confinement in the district in which the United States may lawfully imprison any person arrested under the authority of the United States, until such award, arbitration, or decree is complied with, or the parties are otherwise discharged therefrom, by the consent in writing

of such consul, vice consul, or commercial agent, or his successor in office, or by the authority of the foreign government appointing such consul, vice consul, or commercial agent. The expenses of the said imprisonment and maintenance of the prisoners, and the cost of the proceedings, shall be borne by such foreign government, or by its consul, vice consul, or commercial agent requiring such imprisonment. The marshals of the United States shall serve all such process, and do all other acts necessary and proper to carry into effect the premises, under the authority of the said courts and commissioners. (Mar. 3, 1911, ch. 231, sec. 271, 36 Stat. 1163.)

Chapter 11. Foreign Agents and Propaganda

Subchapter II. Registration of Foreign Propagandists

Section 613. *Exemptions*

The requirements of section 612 (a) of this title shall not apply to the following agents of foreign principals:

(a) A duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, while said officer is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer;

(b) Any official of a foreign government, if such government is recognized by the United States, who is not a public-relations counsel, publicity agent, information-service employee, or a citizen of the United States, whose name and status and the character of whose duties as such official are of public record in the Department of State, while said official is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official;

(c) Any member of the staff of, or any person employed by, a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, other than a public-relations counsel, publicity agent, or information-service employee, whose name and status and the character of whose duties as such member or employee are of public record in the Department of State, while said member or employee is engaged exclusively in the performance of activities which are recognized by the Department of State as being within the scope of the functions of such member or employee;

(d) Any person engaging or agreeing to engage only in private, non-political, financial, mercantile, or other activities in furtherance of the bona fide trade or commerce of such foreign principal or in the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and clothing to relieve human suffering, if such solicitation or collection of funds and contributions is in accordance with and subject to the provisions of sections 441, 444, 445, and 447-457 of this title and such rules and regulations as may be prescribed thereunder;

(e) Any person engaging or agreeing to engage only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts;

(f) Any person, or employee of such person, whose foreign principal is a government of a foreign country the defense of which the President deems

vital to the defense of the United States while, (1) such person or employee engages only in activities which are in furtherance of the policies, public interest, or national defense both of such government and of the Government of the United States, and are not intended to conflict with any of the domestic or foreign policies of the Government of the United States, (2) each communication or expression by such person or employee which he intends to, or has reason to believe will, be published, disseminated, or circulated among any section of the public, or portion thereof, within the United States, is a part of such activities and is believed by such person to be truthful and accurate and the identity of such person as an agent of such foreign principal is disclosed therein, and (3) such government of a foreign country furnishes to the Secretary of State for transmittal to, and retention for the duration of this subchapter by, the Attorney General such information as to the identity and activities of such person or employee at such times as the Attorney General may require. Upon notice to the Government of which such person is an agent or to such person or employee, the Attorney General, having due regard for the public interest and national defense, may, with the approval of the Secretary of State, and shall, at the request of the Secretary of State, terminate in whole or in part the exemption herein of any such person or employee. (June 8, 1938, ch. 327, sec. 3, 52 Stat. 632; Aug. 7, 1939, ch. 521, sec. 2, 53 Stat. 1245; Apr. 29, 1942, ch. 263, sec. 1, 56 Stat. 254.)

(g) CRIMINAL OFFENSES ¹

Chapter 11. Disorderly Conduct

Section 22-1115 [6:120]. *Interference with foreign diplomatic and consular offices, officers, and property*

It shall be unlawful to display any flag, banner, placard, or device designed or adapted to intimidate, coerce, or bring into public odium any foreign government, party, or organization, or any officer or officers thereof, or to bring into public disrepute political, social, or economic acts, views, or purposes of any foreign government, party, or organization, or to intimidate, coerce, harass, or bring into public disrepute any officer or officers or diplomatic or consular representatives of any foreign government, or to interfere with the free and safe pursuit of the duties of any diplomatic or consular representatives of any foreign government, within five hundred feet of any building or premises within the District of Columbia used or occupied by any foreign government or its representative or representatives as an embassy, legation, consulate, or for other official purposes, except by, and in accordance with, a permit issued by the superintendent of police of the said District; or to congregate within five hundred feet of any such building or premises, and refuse to disperse after having been ordered so to do by the police authorities of the said District. (Feb. 15, 1938, 52 Stat. 30, ch. 29, sec. 1.)

¹ *District of Columbia Code*, Title 22, 1951 Edition, pp. 675 *et seq.*

Section 22-1116 [6:121]. *Penalties for interference with foreign diplomatic and consular offices, officers, and property*

The police court of the District of Columbia shall have jurisdiction of offenses committed in violation of sections 22-1115, 22-1116; and any person convicted of violating any of the provisions of said section shall be punished by a fine not exceeding \$100 or by imprisonment not exceeding sixty days, or both: *Provided, however,* That nothing contained in said section shall be construed to prohibit picketing, as a result of bona fide labor disputes regarding the alteration, repair, or construction of either buildings or premises occupied, for business purposes, wholly or in part, by representatives of foreign governments. (Feb. 15, 1938, 52 Stat. 30, ch. 29, sec. 2.)

(h) ALIENS AND NATIONALITY ¹

Chapter 12. *Immigration and nationality*

Subchapter I. General Provisions

Section 1101. *Definitions*

(a) As used in this chapter—

(11) The term “diplomatic visa” means a nonimmigrant visa bearing that title and issued to a nonimmigrant in accordance with such regulations as the Secretary of State may prescribe.

(15) The term “immigrant” means every alien except an alien who is within one of the following classes of nonimmigrant aliens:

(A) (i) An ambassador, public minister, or career diplomatic or consular officer who has been accredited by a foreign government recognized de jure by the United States and who is accepted by the President or by the Secretary of State, and the members of the alien’s immediate family;

(ii) Upon a basis of reciprocity, other officials and employees who have been accredited by a foreign government recognized de jure by the United States, who are accepted by the Secretary of State, and the members of their immediate families; and

(iii) Upon a basis of reciprocity, attendants, servants, personal employees, and members of their immediate families, of the officials and employees who have a nonimmigrant status under (i) and (ii) above;

(C) An alien in immediate and continuous transit through the United States, or an alien who qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District and foreign countries, under the provisions of paragraphs (3), (4), and (5) of section 11 of the Headquarters Agreement with the United Nations (61 Stat. 758);

¹ *United States Code*, Title 8, 1952 Edition, pp. 726 *et seq.*

(G) (i) A designated principal resident representative of a foreign government recognized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669), accredited resident members of the staff of such representatives, and members of his or their immediate family;

(ii) Other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;

(iii) An alien able to qualify under (i) or (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization; and the members of his immediate family;

(iv) Officers, or employees of such international organizations, and the members of their immediate families;

(v) Attendants, servants, and personal employees of any such representative, officer, or employee, and the members of the immediate families of such attendants, servants, and personal employees;

. . .

(26) The term "nonimmigrant visa" means a visa properly issued to an alien as an eligible nonimmigrant by a competent officer as provided in this chapter.

. . .

Section 1102. *Diplomatic and semidiplomatic immunities*

Except as otherwise provided in this chapter, for so long as they continue in the nonimmigrant classes enumerated in this section, the provisions of this chapter relating to ineligibility to receive visas and the exclusion or deportation of aliens shall not be construed to apply to nonimmigrants:

(1) Within the class described in paragraph (15) (A)(i) of section 1101 (a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(A)(i), and, under such rules and regulations as the President may deem to be necessary, the provisions of paragraph (27) of section 1182 (a) of this title;

(2) Within the class described in paragraph (15)(G)(i) of section 1101 (a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(G)(i), and the provisions of paragraph (27) of section 1182 (a) of this title; and

(3) Within the classes described in paragraphs (15)(A)(ii), (15)(G)(ii), (15)(G)(iii), or (15)(G)(iv) of section 1101 (a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraphs, and the provisions of paragraphs (27) and (29) of section 1182 (a) of this title. (June 27, 1952, ch. 477, title I, sec. 102, 66 Stat. 173.)

. . .

Subchapter II. Immigration

PART II. ADMISSION QUALIFICATIONS FOR ALIENS; TRAVEL CONTROL OF CITIZENS
AND ALIENSSection 1184. *Admission of nonimmigrants**(b) Presumption of status; written waiver*

Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a nonimmigrant status under section 1101 (a) (15) of this title. An alien who is an officer or employee of any foreign government or of any international organization entitled to enjoy privileges, exemptions, and immunities under the International Organizations Immunities Act, or an alien who is the attendant, servant, employee, or member of the immediate family of any such alien shall not be entitled to apply for or receive an immigrant visa, or to enter the United States as an immigrant unless he executes a written waiver in the same form and substance as is prescribed by section 1257 (b) of this title.

PART III. ISSUANCE OF ENTRY DOCUMENTS

Section 1201. *Issuance of visas**(b) Registration and fingerprinting; photographs; waiver of requirement*

Each alien who applies for a visa shall be registered and fingerprinted in connection with his application, and shall furnish copies of his photograph signed by him for such use as may be by regulations required. The requirements of this subsection may be waived in the discretion of the Secretary of State in the case of any alien who is within that class of nonimmigrants enumerated in section 1101 (a)(15)(A) and (G) of this title, or in the case of any alien who is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof.

PART VII. REGISTRATION OF ALIENS

Section 1302. *Registration of aliens*

(a) It shall be the duty of every alien now or hereafter in the United States, who (1) is fourteen years of age or older, (2) has not been registered and fingerprinted under section 1201 (b) of this title or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for registration and to be fingerprinted before the expiration of such thirty days.

(b) It shall be the duty of every parent or legal guardian of any alien now or hereafter in the United States, who (1) is less than fourteen years of

age, (2) has not been registered under section 1201 (b) of this title or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for the registration of such alien before the expiration of such thirty days. Whenever any alien attains his fourteenth birthday in the United States he shall, within thirty days thereafter, apply in person for registration and to be fingerprinted. (June 27, 1952, ch. 477, title II, ch. 7, sec. 262, 66 Stat. 224.)

Section 1303. *Registration of special groups*

(b) The provisions of section 1302 of this title and of this section shall not be applicable to any alien who is in the United States as a nonimmigrant under section 1101(a)(15)(A) or (a)(15)(G) of this title until the alien ceases to be entitled to such a nonimmigrant status. (June 27, 1952, ch. 477, title II, ch. 7, sec. 263, 66 Stat. 224.)

PART IX. MISCELLANEOUS

Section 1351. *Schedule of fees*

The following fees shall be charged:

(5) For the issuance of each extension of stay to nonimmigrants, other than nonimmigrants described in section 1101 (a)(15)(F) of this title and, upon a basis of reciprocity, the nonimmigrants described in section 1101 (a)(15)(A)(iii) or 1101 (a)(15)(G)(v) of this title, \$10;

(7) For approval of each application for, including issuance of each certificate of, admission to practice as attorney or representative before the Service, pursuant to such regulations as may be prescribed by the Attorney General, \$25.

The fees for the furnishing and verification of applications for visas by nonimmigrants of each foreign country and for the issuance of visas to nonimmigrants of each foreign country shall be prescribed by the Secretary of State in amounts corresponding, as nearly as practicable, to the total of all similar visa, entry, residence, or other fees, taxes, or charges assessed or levied against nationals of the United States by the foreign countries of which such nonimmigrants are nationals or stateless residents:

Provided, That nonimmigrant visas issued to aliens coming to the United States in transit to and from the headquarters district of the United Nations in accordance with the provisions of the Headquarters Agreement shall be gratis. (June 27, 1952, ch. 477, title II, ch. 9, sec. 281, 66 Stat. 230.)

(i) WAR AND NATIONAL DEFENSE, APPENDIX ¹

Section 456. *Deferments and exemptions from training and service*

(a) Commissioned officers, warrant officers, pay clerks, enlisted men, and aviation cadets of the Regular Army, the Navy, the Air Force, the

¹ *United States Code*, Title 50, 1952 Edition; as amended in 1957 (U.S.C. Annotated, Title 50, section 456).

Marine Corps, the Coast Guard, the Coast and Geodetic Survey and the Public Health Service; cadets, United States Military Academy; midshipmen, United States Navy; cadets, United States Coast Guard Academy; midshipmen, Merchant Marine Reserve, United States Naval Reserve; students enrolled in an officer procurement program at military colleges the curriculum of which is approved by the Secretary of Defense; members of the reserve components of the Armed Forces, the Coast Guard, and the Public Health Service, while on active duty; and foreign diplomatic representatives, technical attachés of foreign embassies and legations, consuls general, consuls, vice consuls and other consular agents of foreign countries who are not citizens of the United States, and members of their families, and persons in other categories to be specified by the President who are not citizens of the United States, shall not be required to be registered under section 3 [section 453 of this Appendix] and shall be relieved from liability for training and service under section 4 [section 454 of this Appendix], except that aliens admitted for permanent residence in the United States shall not be so exempted. Any person who subsequent to June 24, 1948, serves on active duty for a period of not less than eighteen months in the armed forces of a nation with which the United States is associated in mutual defense activities as defined by the President, may be exempted from training and service, but not from registration, in accordance with regulations prescribed by the President, except that no such exemption shall be granted to any person who is a national of a country which does not grant reciprocal privileges to citizens of the United States: *Provided*, That any active duty performed prior to June 24, 1948, by a person in the armed forces of a country allied with the United States during World War II and with which the United States is associated in such mutual defense activities, shall be credited in the computation of such eighteen-month period.

. . .
(j) POSTAL SERVICE ¹
. . .

Chapter 8. *The Franking Privilege*
. . .

Section 321-1. *Same*; [*Matter relating to official business*;] *Pan American Sanitary Bureau*

The privilege of the free transmission of official mail matter is hereby extended to the Pan American Sanitary Bureau in the same manner and subject to the same conditions as is provided in the case of official mail matter of the Pan American Union. (June 29, 1940, ch. 453, 54 Stat. 695.)

. . .

Section 336. *Correspondence of members of Diplomatic Corps and consuls of countries of Pan American Postal Union; freedom of postage; free registration; indemnity for loss*

Under such regulations as the Postmaster General shall prescribe correspondence of the members of the Diplomatic corps of the countries of the Pan American Postal Union stationed in the United States may be recipro-

¹ *United States Code*, Title 39, 1952 Edition; as amended in 1957 (U.S.C. Annotated, Title 39, sections 321-1 and 336).

cally transmitted in the domestic mails free of postage, and be entitled to free registration, but without any right to indemnity in case of loss. The same privilege shall be accorded consuls of such countries stationed in the United States, and vice consuls when they are discharging the functions of such consuls, for the exchange of official correspondence among themselves, and for that which they direct to the Government of the United States. (Feb. 14, 1929, ch. 203, 45 Stat. 1177.)

. . .
(k) PUBLIC PRINTING AND DOCUMENTS¹
. . .

Chapter 3. Superintendent of Documents; Distribution of Documents in General
. . .

Section 91. *Documents and reports for foreign legations*

Documents and reports may be furnished to foreign legations to the United States upon request specifying those desired, and requisition made upon the Public Printer by the Secretary of State: *Provided*, That such gratuitous distributions shall only be made to legations whose Governments furnish to legations from the United States copies of their printed and legislative documents desired. (Jan. 12, 1895, ch. 23, sec. 75, 28 Stat. 620.)

. . .
(l) PUBLIC HEALTH AND WELFARE²
. . .

Chapter 7. Social Security

Subchapter II. Federal Old-Age and Survivors Insurance Benefits
. . .

Section 410. *Definitions relating to employment*

For the purposes of this subchapter—

(a) *Employment*

The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this subchapter under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee (i) of an American employer (as defined in subsection (e) of this section), or (ii) of a foreign subsidiary (as defined in section 3121 (I) of Title 26, Internal Revenue Code of 1954) of a domestic corporation (as determined in accordance with section 7701 of Title 26, Internal Revenue

¹ *United States Code*, Title 44, 1952 Edition, pp. 6419 *et seq.*

² *United States Code*, Title 42, 1952 Edition, Supplement III, pp. 1554 *et seq.*

Code of 1954) during any period for which there is in effect an agreement, entered into pursuant to section 3121 (I) of Title 26, Internal Revenue Code of 1954, with respect to such subsidiary; except that, in the case of service performed after 1950, such term shall not include

(11) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(12) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(15) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act.

(m) INTERNAL REVENUE CODE ¹

Subtitle A. Income Taxes

Chapter 1. Normal Taxes and Surtaxes

Subchapter N. Tax Based on Income From Sources Within or Without the United States

PART II NONRESIDENT ALIENS AND FOREIGN CORPORATIONS

Subpart C. Miscellaneous provisions

Section 892. *Income of foreign governments and of international organizations*

The income of foreign governments or international organizations received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments or by international organizations, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments or international organizations, or from any other source within the United States, shall not be included in gross income and shall be exempt from taxation under this subtitle. (Aug. 16, 1954, 9:45 a.m., E.D.T., ch. 736, 68A Stat. 284.)

Section 893. *Compensation of employees of foreign governments or international organizations*

(a) *Rule for exclusion*

Wages, fees, or salary of any employee of a foreign government or of an international organization (including a consular or other officer, or a non-

¹ *United States Code*, Title 26, 1952 Edition, Supplement III, pp. 671 *et seq.*

diplomatic representative), received as compensation for official services to such government or international organization shall not be included in gross income and shall be exempt from taxation under this subtitle if:

(1) Such employee is not a citizen of the United States, or is a citizen of the Republic of the Philippines (whether or not a citizen of the United States); and

(2) In the case of an employee of a foreign government, the services are of a character similar to those performed by employees of the Government of the United States in foreign countries; and

(3) In the case of an employee of a foreign government, the foreign government grants an equivalent exemption to employees of the Government of the United States performing similar services in such foreign country.

(b) Certificate by Secretary of State

The Secretary of State shall certify to the Secretary of the Treasury the names of the foreign countries which grant an equivalent exemption to the employees of the Government of the United States performing services in such foreign countries, and the character of the services performed by employees of the Government of the United States in foreign countries. (Aug. 16, 1954, 9:45 a.m., E.D.T., ch. 736, 68A Stat. 284.)

Subtitle C. Employment Taxes

Chapter 21. Federal Insurance Contributions Act

Subchapter C. General Provisions

Section 3121. *Definitions*

(b) Employment

For purposes of this chapter, the term "employment" means any service performed after 1936 and prior to 1955 which was employment for purposes of subchapter A of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1954 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee for an American employer (as defined in subsection (h)); except that, in the case of service performed after 1954, such term shall not include—

(11) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(12) Service performed in the employ of an instrumentality wholly owned by a foreign government:

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(15) Service performed in the employ of an international organization.

Chapter 23. Federal Unemployment Tax Act

Section 3306. *Definitions*

(c) *Employment*

For purposes of this chapter, the term "employment" means any service performed prior to 1955, which was employment for purposes of subchapter C of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1954 by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except:

(11) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(12) Service performed in the employ of an instrumentality wholly owned by a foreign government:

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(16) Service performed in the employ of an international organization;

Subtitle F. Procedure and Administration

Chapter 77. Miscellaneous Provisions

Section 7511. *Exemption of consular officers and employees of foreign states from payment of internal revenue taxes on imported articles*

(a) *Rule of exemption*

No internal revenue tax shall be imposed with respect to articles imported

by a consular officer of a foreign state or by an employee of a consulate of a foreign state, whether such articles accompany the officer or employee to his post in the United States, its insular possessions, or the Panama Canal Zone, or are imported by him at any time during the exercise of his functions therein, if:

- (1) Such officer or employee is a national of the state appointing him and not engaged in any profession, business, or trade within the territory specified in this subsection;
- (2) The articles are imported by the officer or employee for his personal or official use; and
- (3) The foreign state grants an equivalent exemption to corresponding officers or employees of the Government of the United States stationed in such foreign state.

(b) *Certificate by Secretary of State*

The Secretary of State shall certify to the Secretary of the Treasury the names of the foreign states which grant an equivalent exemption to the consular officers or employees of the Government of the United States stationed in such foreign states. (Aug. 16, 1954, 9:45 a.m., E.D.T., ch. 736, 68A Stat. 900.)

(n) CUSTOMS DUTIES ¹

Chapter I. Bureau of Customs

PART 10. ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Diplomatic and Consular Officers

Section 10.29 *Baggage*. (a) Upon application to the Department of State and appropriate instructions from the Treasury Department in each instance, the privilege of admission free of duty without entry shall be extended to the baggage and effects of the following representatives of foreign governments and their families, suites, and servants, provided the governments which they represent grant reciprocal privileges to American officials of like grade accredited thereto or en route to or from other countries to which accredited.

(1) Ambassadors, ministers, and *chargés d'affaires*; secretaries, counselors and naval, military, and other *attachés* of embassies and legations; high commissioners, consular officers, and trade representatives; all the foregoing who are accredited to this Government or are en route to or from other countries to which accredited; and

(2) Other high officials of foreign governments and such distinguished foreign visitors as may be designated by the Department of State.

(b) In the absence of special authorization therefor from the Department prior to the arrival of representatives of foreign governments enumerated in paragraph (a) (1) of this section, the privilege may be extended to their baggage and effects upon presentation of their credentials or other proof of their identity.

¹ *Code of Federal Regulations*, Title 19, 1953 Edition, pp. 3 *et seq.*

(c) Foreign ambassadors, ministers, *chargés d'affaires*; secretaries, counselors, and naval, military, and other *attachés* of foreign embassies and legations shall not be detained or inconvenienced, and their baggage effects shall remain inviolate. Every proper means shall be afforded them to facilitate their passage through ports of the United States.

(d) The privilege of admission free of duty without entry of their baggage and effects may also be extended to representatives of this Government of the classes enumerated in paragraph (a) (1) of this section, including Treasury *attachés* and Treasury representatives, together with their families and servants, returning from their missions abroad, upon the production of their credentials; and to other high officials of this Government returning from special missions abroad, upon application therefor direct to the Treasury Department by the heads of the respective branches of the Government with which they are connected and the issuance of appropriate instructions. The free entry authorized hereunder shall not extend to alcoholic beverages, with respect to which the persons enumerated in this paragraph shall receive no other exemption from duty and internal-revenue tax than is allowed returning residents of the United States in accordance with section 10.17 (d).

(e) If by accident or unavoidable delay in shipment the baggage or other effects of a person of any class mentioned in this section shall arrive after him, such baggage or effects may be passed free of duty, under the conditions specified above, upon satisfactory proof of ownership.

(*Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498*) [*13 F.R. 7990, Dec. 18, 1948, as amended by T.D. 53336, 18 F.R. 5416, Sept. 9, 1953*]

Section 10.30 *Importations for resident representatives of foreign governments.*

(a) Costumes, regalia, and other articles, including office supplies and equipment, for the official use of members and *attachés* of foreign embassies and legations, consular officers, and other representatives of foreign governments, may be admitted free of duty, provided the country which any such person represents accords like privileges to corresponding officials of the United States. Articles for the official use of representatives of foreign governments not listed in a Treasury Decision¹ shall be admitted free of duty only upon the receipt of instructions from the Department, which will be issued only when application therefor is made through the Department of State.

(b) Packages bearing the official seal of a foreign government with which the United States has diplomatic relations, accompanied by certificates under such seal to the effect that they contain only official communications or documents may be admitted free of duty without customs examination.

(c) The privilege of importing free of duty articles for their personal or family use may be granted to (1) members and *attachés* of foreign embassies and legations, and (2) other representatives and employees of foreign governments to whom the privilege is accorded under special agreements between the United States and the countries which they represent,² but in either case the privilege may be granted only upon the Department's instructions in each instance which will be issued only upon the request of the Department of State.

¹ Information concerning countries whose governments accord such reciprocal privileges is published in T.D. 52847, and T.D. 53233.

² Notices regarding the special agreements are published in the Treasury Decisions.

(d) No entry is required for shipments admitted free of duty under this section.

(Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498) [13 F.R. 7990, Dec. 18, 1948, as amended by T.D. 53098, 17 F.R. 8379, Sept. 18, 1952]

(o) CUSTOMS DUTIES ¹

Chapter 4. *Tariff Act of 1930*

Subtitle IV. Administrative Provisions

PART II. REPORT, ENTRY, AND UNLOADING OF VESSELS AND VEHICLES

Section 1435. *Entry of foreign vessels*

The master of any foreign vessel arriving within the limits of any customs collection district shall within forty-eight hours thereafter, make entry at the customhouse in the same manner as is required for the entry of a vessel of the United States, except that a list of the crew need not be delivered, and that instead of depositing the register or document in lieu thereof such master may produce a certificate by the consul of the nation to which such vessel belongs that said documents have been deposited with him: *Provided*, That such exception shall not apply to the vessels of foreign nations in whose ports American consular officers are not permitted to have the custody and possession of the register and other papers of vessels entering the ports of such nations. (June 17, 1930, ch. 497, title IV, sec. 435, 46 Stat. 711.)

Section 1438. *Unlawful return of foreign vessel's papers*

It shall not be lawful for any foreign consul to deliver to the master of any foreign vessel the register, or document in lieu thereof, deposited with him in accordance with the provisions of section 1435 of this title until such master shall produce to him a clearance in due form from the collector of the port where such vessel has been entered. Any consul offending against the provisions of this section shall be liable to a fine of not more than \$5,000. (June 17, 1930, ch. 497, title IV, sec. 438, 46 Stat. 712.)

Venezuela

(a) ACT OF 13 AUGUST 1945 CONCERNING THE IMMUNITIES AND PREROGATIVES OF FOREIGN DIPLOMATIC OFFICERS ²

Article 1. For the purposes of this Act, the expression "foreign diplomatic officers" means all persons recognized as such by the Government of the Republic in conformity with the principles accepted by international law and with the provisions of the Convention regarding Diplomatic Officers signed at Havana in 1928.

¹ *United States Code*, Title 19, 1952 Edition, pp. 2633 *et seq.*

² Text of Act provided by the Permanent Representative of Venezuela to the United Nations. Translation by the Secretariat of the United Nations.

Article 2. Foreign diplomatic officers shall be inviolate as to their person, their residence, private or official, and their property.

Article 3. The Government of Venezuela shall extend to foreign diplomatic officers every facility for the exercise of their functions and especially to the end that they may freely communicate with their Governments.

Article 4. Diplomatic officers accredited to the National Government shall on the condition that Venezuelan diplomatic officers enjoy a like exemption in the accrediting country, be exempt:

- (1) From all personal taxes;
- (2) From all land taxes on the building of the mission, when it belongs to the respective Government;
- (3) From duties payable to the Customs authorities on articles imported for the official use of the mission or for the personal use of the diplomatic officer, as provided in the relevant legislation.

Article 5. Foreign diplomatic officers shall be exempt from all civil or criminal jurisdiction of the courts of the Republic and consequently may not, except in cases in which after being duly authorized by their Government they waive immunity, be prosecuted unless it be in the courts of their own country.

Sole paragraph. Nothing contained in these provisions shall affect the provisions of article 128, paragraph 3, of the National Constitution.

Article 6. The immunity from jurisdiction survives the tenure of office of diplomatic officers in so far as regards actions pertaining thereto. The other privileges and immunities may not be invoked except while the said officers are discharging their diplomatic functions.

Article 7. Persons enjoying immunity from jurisdiction may refuse to appear as witnesses before the courts of the Republic.

Article 8. Diplomatic officers shall be entitled to their immunity from the moment they enter the territory of the Republic, provided that they make known their position.

Article 9. In case of death of the diplomatic officer, his family shall continue to enjoy the immunities for a reasonable term, which shall be determined by the Minister of Foreign Affairs but shall not in any case be less than one month, until they leave the territory of the Republic.

Article 10. The Federal Executive may, by a special Decree, extend to delegates or representatives to international conferences or to members of official international agencies or services the enjoyment, for such time as they remain in the territory of the Republic, of all the immunities and prerogatives extended to diplomatic officers pursuant to this Act.

Sole paragraph. Diplomatic officers, delegates or representatives to international conferences or members of official international agencies or services who are Venezuelan nationals shall not be entitled to the immunities referred to in this Act.

Article 11. The Federal Executive shall publish in the Official Gazette of the United States of Venezuela, at least once in each year, a complete list of the diplomatic missions accredited to the National Government, and changes in the said list as they occur.

Article 12. The Act of 19 May 1841 relating to the immunities of public ministers is hereby repealed.

Viet-Nam

a) NOTE ¹ SUR LES PRIVILÈGES ET IMMUNITÉS DIPLOMATIQUES AU VIET-NAM

I. *Impôts perçus par l'Administration des contributions directes*

1) Les diplomates étrangers en fonction au Viet-Nam sont exemptés de l'impôt général sur le revenu et de l'impôt sur les salaires sous la condition que leur gouvernement accorde un avantage analogue aux agents diplomatiques vietnamiens (articles 31 et 49 du Code général des impôts sur les revenus) ². De cette exemption bénéficient non seulement les chefs de mission, mais aussi le personnel sous leurs ordres: conseillers, secrétaires, attachés, etc. Elle s'étend également aux consuls et aux agents consulaires étrangers sous condition de réciprocité.

Toutefois, l'exemption de l'impôt général sur le revenu en faveur des agents diplomatiques et consulaires ne s'applique pas aux revenus ou bénéfices provenant soit des propriétés que ces agents posséderaient à titre personnel au Viet-Nam soit des professions ou des activités qu'ils exerceraient en dehors de leurs fonctions officielles.

2) Les acquisitions par les gouvernements étrangers d'immeubles destinés à l'usage exclusif des services diplomatiques et consulaires sont dispensées des taxes foncières (article 25 de l'ordonnance n° 7 du 13-4-53. — Code national de l'impôt foncier) ³. Cette dispense ne s'étend pas cependant aux taxes de voirie qui, de par leur nature, sont perçues en rémunération de services rendus, ex.: taxes de balayage, de déversement à l'égout, etc.

II. *Impôts perçus par l'Administration des contributions indirectes*

Les ambassadeurs et autres membres du corps diplomatique directement accrédités auprès du Chef de l'État bénéficient de la franchise des droits spécifiques sur les boissons destinées à leur usage (vin, spiritueux, etc.).

Par contre, les taxes sur le chiffre d'affaires doivent être perçues sans considération de la qualité des acheteurs.

III. *Impôts perçus par l'Administration de l'enregistrement*

1) Exemption des droits de mutation pour des acquisitions d'immeubles destinés à servir d'hôtels d'ambassades, de légations ou de consulats (arrêté du 30 juin 1948) ⁴. Toutefois, les droits dont il s'agit seraient dus en cas d'acquisitions d'immeubles effectuées à titre personnel par les agents diplomatiques eux-mêmes.

En ce qui concerne le droit de bail, l'exonération pourrait être accordée aux locations de bureaux ou d'appartements consentie aux agents des ambassades ou légations bénéficiant de l'immunité diplomatique.

2) Exemption de la taxe unique de timbre et d'enregistrement:

a) Sur les contrats d'assurances sur la vie ou de rente viagère souscrits par les agents diplomatiques ou les consuls de carrière;

b) Sur les contrats d'assurances contre les incendies des hôtels d'ambassades, des légations ou des consulats et des meubles garnissant;

¹ Reçue du Ministère des affaires étrangères du Viet-Nam.

² Voir *infra*, b.

³ Voir *infra*, d.

⁴ Voir *infra*, c.

c) Sur les contrats d'assurances tous risques des véhicules automobiles appartenant aux personnes jouissant d'un statut diplomatique ou aux consuls de carrière.

En dehors des cas énumérés ci-dessus, les agents diplomatiques sont soumis aux règles du droit commun, en ce qui concerne la perception des droits d'enregistrement exigibles sur les contrats passés en leurs noms personnels.

IV. *Impôts perçus par l'Administration des douanes*

1. Les chefs de mission diplomatique directement accrédités près le Chef de l'État jouissent, à titre de réciprocité et de courtoisie, d'immunités particulières pour les objets destinés à leur usage personnel ou à celui de leur famille. Ces immunités sont réglées par voie diplomatique. Elles ne peuvent être accordées que sur la demande du Département des affaires étrangères, et en vertu d'autorisation spéciale de l'Administration des douanes.

2. Les conseillers, secrétaires et attachés d'ambassade ou de légation, ainsi que les consuls, n'ont droit en principe à aucun privilège spécial, mais le mobilier qu'ils apportent de l'étranger est admis en franchise.

Toutefois, sous réserve que les intéressés justifient de leur qualité au moyen d'un passeport régulier, on admet, en franchise et sans visite, les bagages des conseillers, secrétaires et attachés des ambassades ou des légations.

L'immunité s'applique à tous les objets d'ameublement y compris les œuvres d'art, tapis et tapisseries de toutes sortes, aux habillements, au linge de corps, de lit, de table et de cuisine, aux livres de bibliothèque et d'étude, à la verrerie, à la vaisselle, aux porcelaines, aux ustensiles de ménage, piano, instruments de musique, un phonographe, un appareil de T. S. F. et un appareil cinématographique de salon, frigidaire, machine à coudre, argenterie de ménage, moteurs électriques faisant partie intégrante des appareils ménagers, armes de chasse.

Il est précisé que tous les objets, composant le mobilier, doivent être en cours d'usage et en rapport avec la position sociale de l'intéressé.

3. Sont admis en franchise les écussons, sceaux, pavillons, emblèmes distinctifs de nationalité, livres, archives, documents officiels et imprimés de service (y compris les enveloppes et les papiers à lettres à en-tête), ainsi que les coffres-forts, adressés par leur gouvernement aux titulaires ou à leurs suppléants, des consulats, vice-consulats et agences consulaires des pays qui accordent la réciprocité aux consuls, vice-consuls et agents consulaires vietnamiens.

Sont également admises en franchise, dans les mêmes conditions, les machines à écrire adressées par leur gouvernement aux représentants consulaires des pays qui accordent la réciprocité.

4. Les échantillons de produits étrangers destinés à être exposés dans un but de propagande commerciale au siège des consulats et agences consulaires peuvent être admis en franchise des droits et taxes de douane. Cette facilité est limitée aux échantillons dont la quantité ou l'importance ne peut donner lieu à aucun abus; en outre, chaque envoi doit faire l'objet d'une autorisation préalable de l'Administration des douanes.

5. Les paquets, revêtus des cachets ou sceaux officiels des cabinets étrangers sont exemptés de toute visite, lorsqu'ils sont transportés par des agents ou courriers diplomatiques, munis d'une feuille de part mentionnant le nombre des colis et indiquant qu'ils renferment des dépêches officielles.

A titre de réciprocité, les valises diplomatiques des gouvernements étrangers peuvent être confiées à l'agent des postes embarqué sur les navires postaux et remises aux ambassades ou légations destinataires sans être soumises au contrôle des autorités douanières locales.

6. Les véhicules automobiles importés, pour leur usage personnel, par les chefs de mission diplomatique étrangère, directement accrédités auprès du Chef de l'État (ambassadeurs, ministres et chargés d'affaires) sont admis en franchise, au titre du privilège diplomatique.

Les autres membres du corps diplomatique (conseillers, secrétaires, attachés d'ambassade ou de légation, etc.) sont autorisés à importer temporairement leurs véhicules automobiles sous le couvert d'un acquit avec dispense de caution valable pour toute la durée de leurs fonctions officielles.

Les agents consulaires de carrière étrangers sont autorisés à importer temporairement leurs véhicules automobiles dans les conditions prévues au paragraphe précédent, mais pour une durée d'un an, susceptible toutefois d'être prolongée et sous réserve de réciprocité.

7. Sous réserve de réciprocité les missions diplomatiques peuvent bénéficier d'un contingent mensuel — ou trimestriel — d'essence, en franchise des droits de douane et d'autres taxes. La quantité d'essence ainsi exonérée de toutes taxes est calculée d'après le nombre des véhicules dont dispose la mission diplomatique.

b) ORDONNANCE N° 10 DU 13 AVRIL 1953 (CODE GÉNÉRAL DES IMPÔTS SUR LES REVENUS)

TITRE II. — IMPÔT SUR LES TRAITEMENTS PUBLICS ET PRIVÉS, LES INDEMNITÉS ET ÉMOLUMENTS, LES SCOLAIRES, LES PENSIONS ET LES RENTES VIAGÈRES

Article 31. Sont affranchis de l'impôt:

- 1)
- 2) Les ambassadeurs et autres agents diplomatiques, les consuls et les agents consulaires de nationalité étrangère, mais seulement dans la mesure où les pays qu'ils représentent concèdent des avantages analogues aux agents diplomatiques et consulaires vietnamiens ou chargés des intérêts du Viet-Nam.

TITRE III. — IMPÔT GÉNÉRAL SUR LE REVENU

Article 49. Sont affranchis de l'impôt:

- 1)
- 2) Les ambassadeurs et autres agents diplomatiques, les consuls et les agents consulaires de nationalité étrangère, mais seulement dans la mesure où les pays qu'ils représentent concèdent des avantages analogues aux agents diplomatiques et consulaires vietnamiens ou chargés des intérêts du Viet-Nam.

c) ARRÊTÉ N° 182/2270 DU 30 JUIN 1948 PORTANT EXONÉRATION DES DROITS DE MUTATION DES ACHATS D'IMMEUBLES ACQUIS POUR LES BESOINS DIPLOMATIQUES ET CONSULAIRES

Article premier. Sont enregistrées gratuitement et dispensées de la taxe à la première mutation et des taxes hypothécaires et foncières, les acquisitions

par les gouvernements étrangers d'immeubles destinés à l'usage exclusif des services diplomatiques et consulaires.

d) ORDONNANCE N° 7 DU 13 AVRIL 1953 (IMPÔT FONCIER)

Article 25. Sont exemptés en totalité de l'impôt foncier des propriétés bâties.

5) Les hôtels des ambassades.

Yugoslavia ¹

(a) PENAL CODE ²

Damage to the reputation of a foreign State or an international organization

Article 175. (1) Any person who exposes to contempt a foreign State or its flag or emblem shall be punishable by imprisonment for a term of not less than three months nor more than three years.

Damage to the honour or reputation of the Head of a foreign State, a diplomatic agent or a representative of an international organization

Article 176. (1) Any person who damages the honour or reputation of the Head of a foreign State shall be punishable by a term of imprisonment of not less than three months nor more than three years.

(2) Any person who commits the offence specified in paragraph (1) of this article against a diplomatic agent of a foreign State in the Federal People's Republic of Yugoslavia shall be punishable by imprisonment for a term not exceeding two years.

Prosecutions for offences against honour or reputation

Article 177. (1) Prosecutions for the offences specified in articles 174 to 176 of this Code shall be undertaken by the public authorities; in the case of an offence specified in article 175 or 176, prior approval shall be obtained from the Minister of Justice of the Federal People's Republic of Yugoslavia.

¹ The texts of enactments reproduced under Yugoslavia have been provided by the Permanent Representative of Yugoslavia to the United Nations. Translation by the Secretariat of the United Nations.

² *Službeni List*, No. 13/51.

(b) CODE OF CRIMINAL PROCEDURE ¹

. . .

Article 133. Persons entitled to extritoriality in the Federal People's Republic of Yugoslavia shall enjoy such immunity from criminal prosecution as is consistent with the principles of international law.

In the event of any doubt arising regarding the extritorial status of any person, the court shall request advice from the State Secretariat for Foreign Affairs through the State Secretariat for the Administration of Justice.

. . .

Article 199.

. . .

(3) Except where otherwise provided by an international agreement, persons entitled to extritoriality in the Federal People's Republic of Yugoslavia shall be served with court documents through the State Secretariat for Foreign Affairs.

(c) ACT TO AMEND AND SUPPLEMENT THE BASIC ACT
CONCERNING PETTY OFFENCES ²

. . .

Article 22. No administrative penal proceedings may be instituted and no penalty for a petty offence may be imposed if the offender is entitled to diplomatic immunity.

. . .

(d) CUSTOMS ACT ³

. . .

Article 33. Subject to reciprocity, the following articles may be imported free of duty:

(1) Articles intended for the personal use of diplomatic agents accredited to the Presidium of the National Assembly of the Federal People's Republic of Yugoslavia or to the Yugoslav Government, or for the personal use of members of their families and their subordinate diplomatic staff, to the extent that such privileges are enjoyed by the diplomatic personnel of the Federal People's Republic of Yugoslavia in the sending State;

(2) Documents, flags, emblems, insignia, seals, office supplies, equipment and furniture imported by diplomatic or consular missions or other administrative agencies of foreign States, as well as means of transport intended for the official use of the importing establishment;

(3) Household goods and effects intended for the personal use of consuls and the office or auxiliary staff of diplomatic or consular missions, if imported within six months from the date of arrival of the importer.

. . .

¹ *Službeni List*, No. 40/53.

² *Službeni List*, No. 46/51.

³ *Službeni List*, No. 90/48.

(e) TAX ACT ¹ AS AMENDED BY TAX (AMENDMENT) ACT ²

Article 29. The following may be declared wholly or partially exempt from income tax:

(g) Subject to reciprocity, the income of foreign States and of their agents;

Article 51. On the day of the coming into force of this Act, all exemptions heretofore granted by virtue of any provision not contained in an international agreement or in legislation enacted since 1 January 1946 shall cease to be applicable.

(f) DECREE CONCERNING INCOME TAX ³

Article 55. The following shall not be regarded as income from buildings and shall be exempt from taxation:

(2) Subject to reciprocity, the rental value of any building belonging to a foreign State and occupied by the diplomatic or consular mission of that State.

(g) ACT CONFIRMING, AMENDING AND SUPPLEMENTING THE ACT CONCERNING DIRECT TAXES ⁴

Article 11. The following persons shall be exempt from taxation on income derived from their employment:

(1) Subject to reciprocity, diplomatic representatives of foreign States and other persons entitled to extraterritoriality by virtue of international law, their servants and agents, and such other foreign nationals as are entitled to exemption by virtue of an international agreement or of the principles of international law.

(h) ACT CONCERNING ESTATE DUTY AND GIFT TAX ⁵

Article 14. Estate duty and gift tax shall not be payable on:

(4) Gifts to foreign States or to foreign organizations serving humanitarian or social ends;

¹ *Službeni List*, No. 105/46.

² *Službeni List*, No. 86/49.

³ *Službeni List*, No. 56/53.

⁴ *Službeni List*, No. 67/46.

⁵ *Službeni List*, No. 19/55.

(5) Gifts from the Federal People's Republic of Yugoslavia to foreign States for the use of their missions;

(6) Gifts to the United Nations or specialized agency of the United Nations.

The exemption of foreign nationals and foreign States and organizations from the payment of estate duty and gift tax in accordance with sub-paragraphs 1 to 4 of this article shall be conditional upon the extension by the beneficiary State of reciprocal privileges to Yugoslav nationals or to the Federal People's Republic of Yugoslavia or to Yugoslav organizations.

(i) BASIC ACT CONCERNING MUNICIPAL CHARGES AND LOCAL RATES ¹

Article 5. Municipal charges and local rates shall not be chargeable to persons or establishments exempt from taxation by virtue of an international convention or of a reciprocal arrangement between the Federal People's Republic of Yugoslavia and a foreign State, in so far as this privilege comes within the scope of such reciprocal arrangement or convention.

The exemption specified in the preceding paragraph shall be extended to missions of foreign States, to their staff and to international organizations.

(j) ACT CONFIRMING, AMENDING AND SUPPLEMENTING THE ACT CONCERNING TREASURY CHARGES ²

Exemptions

Article 5. The following shall be exempt from the payment of Treasury charges:

2. Subject to reciprocity, diplomatic and consular agents of foreign States in the conduct of their diplomatic or consular business;

(k) DECREE TO AMEND AND SUPPLEMENT THE SCHEDULE OF TAXES ESTABLISHED BY THE TAX ACT ³

Article 2.

Notice IV. The tax specified in sub-paragraph 10 of this Schedule (relating to the entry and passage of foreign motor vehicles) shall not be chargeable on:

(3) Road motor vehicles transporting material for foreign diplomatic or consular missions in the Federal Republic of Yugoslavia;

(4) Passenger motor cars belonging to foreign States, foreign diplomatic or consular agents or any other person travelling through Yugoslavia with

¹ *Službeni List*, No. 19/55.

² *Službeni List*, No. 68/46.

³ *Službeni List*, No. 18/55.

a diplomatic passport and bearing a diplomatic visa of the Federal People's Republic of Yugoslavia, provided that such privileges derive from an express agreement or are reciprocally extended.

(l) DECREE TO AMEND AND SUPPLEMENT THE DECREE CONCERNING
NOTIFICATION OF PERSONAL MOVEMENTS ¹

Article 13. The arrival of a member of the diplomatic or consular corps or of a foreign mission who is entitled to diplomatic immunity or consular status in the Federal People's Republic of Yugoslavia, of a permanent official of a diplomatic, consular or other permanent foreign mission in the Federal People's Republic of Yugoslavia and of a member of the family of any such person shall be notified to the Ministry of Foreign Affairs by the mission of the sending State. Subject to reciprocity, the same procedure shall be followed in the case of servants of a chief of a diplomatic mission. The Ministry of Foreign Affairs shall deliver to all such persons diplomatic or consular identity cards or identity cards confirming their status as officials of foreign missions.

The arrival of a foreign national temporarily resident in the territory of the People's Republic of Yugoslavia on a diplomatic travel document and a Yugoslav diplomatic visa shall be notified to the Ministry of Foreign Affairs by the mission of the sending State. Receipt of such notification shall be confirmed on the travel document. If any such person proceeds to any place in the territory of the Federal People's Republic of Yugoslavia away from the seat of the diplomatic or consular mission of the sending State, his movements shall be notified in accordance with article 11 of this Decree.

Notice of the departure of any foreign national mentioned in the preceding paragraphs shall be given to the Ministry of Foreign Affairs by the mission of the sending State. Receipt of such notice shall be confirmed by the Ministry of Foreign Affairs on the travel document of the person concerned.

Foreign nationals temporarily resident in the territory of the Federal People's Republic of Yugoslavia on a service travel document shall notify their arrival and departure in accordance with article 11 of this Decree.

(NOTE: Article 11 of this Decree applies to other foreign nationals, holding ordinary travel documents.)

Article 14. Heads of foreign States, their Ministers of Foreign Affairs, extraordinary missions of foreign States and delegations negotiating international agreements, as well as the retinue of such persons or bodies, shall be exempt from the duty to notify their arrival in the territory of the Federal People's Republic of Yugoslavia.

(m) ACT CONCERNING HEALTH INSURANCE OF WORKERS AND
EMPLOYEES ²

Article 15. Foreign nationals on the territory of the Federal People's Republic of Yugoslavia who are in the service of international organizations or establishments or of foreign diplomatic or consular missions, or in the

¹ *Službeni List*, No. 39/50.

² *Službeni List*, No. 51/54.

personal service of foreign nationals entitled to diplomatic immunity, shall not be insured in accordance with this Act except where an agreement or international treaty expressly extends to such persons the benefits of health insurance.

The foreign nationals mentioned in the preceding paragraph shall be entitled to the health benefits specified in this Act if the establishment or organization concerned voluntarily requests coverage for all its staff.

(n) ACT CONCERNING DEALINGS IN LAND AND BUILDINGS ¹

Dealings in land and buildings with a foreign country

Article 47. Foreign diplomatic and consular missions and the United Nations and its specialized agencies may, with the prior approval of the Federal Executive Council, purchase buildings for official purposes, regardless of the previous ownership thereof, or privately owned building sites on which to erect such buildings.

(o) ACT SUPPLEMENTING THE ACT CONCERNING DEALINGS IN LAND AND BUILDINGS ²

Article 47a. A District People's Council, with the approval of the Federal Executive Council, may, either with or without the payment of compensation, grant to a foreign diplomatic or consular mission or to the United Nations or a specialized agency thereof the permanent use of a building site under public ownership on which to erect a building for official use.

A building erected on a site the use of which has been granted in accordance with the preceding paragraph shall not come under the public ownership of the Federal People's Republic of Yugoslavia.

(p) REGULATION CONCERNING THE REGISTRATION OF MOTOR VEHICLES AND TRAILERS ³

Article 28. The registration plate on a vehicle shall bear a five-pointed star, the initial letters of the name of the People's Republic on the territory of which the vehicle is registered and a registration number.

The registration plate on vehicles belonging to foreign missions or delegations in the Federal People's Republic of Yugoslavia or to the individual members of such missions or delegations shall bear, in addition to a five-pointed star, the letters "CD" or "D" and a registration number.

The letters "CD" shall be carried on vehicles used by persons enjoying diplomatic status and the letter "D" on vehicles used by other members of foreign missions or delegations.

¹ *Službeni List*, No. 26/54.

² *Službeni List*, No. 19/55.

³ *Službeni List*, No. 24/52.

(g) REGULATION CONCERNING WIRELESS FEES ¹

. . . .

Article 16.

. . . .

(2) The provisions of this regulation shall not apply to persons entitled to diplomatic immunity.

¹ *Službeni List*, No. 57/51.