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STATE PRESIDENT'S OFFICE

No. 1189.

9 June 1989

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 74 of 1989: Diplomatic Immunities and Privileges Act, 1989.

KANTOOR VAN DIE STAATSPRESIDENT

No. 1189.

9 Junie 1989

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 74 van 1989: Wet op Diplomatieke Immunitate en Voorregte, 1989.

ACT

To make new provision regarding the immunities and privileges of representatives of heads of other states or governments, of delegates to international conferences, of members and officials of certain organizations and institutions and of certain other persons; to give effect to certain provisions of the Vienna Convention on Diplomatic Relations, 1961, and the Vienna Convention on Consular Relations, 1963; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 1 June 1989.)*

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, and in the Conventions, unless inconsistent with the context—
 - (i) "Director-General" means the Director-General: Foreign Affairs; (iv) 5
 - (ii) "grave crime" means any offence for which a person may on conviction be sentenced to imprisonment for five years or more; (v)
 - (iii) "local authority" means any institution or body contemplated in the definition of "local authority" in section 1 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983); (xi) 10
 - (iv) "member of a family"—
 - (a) in relation to the household of a member of the staff of a mission referred to in Article 1 of the Vienna Convention on Diplomatic Relations, 1961, or of a consular post referred to in Article 1.1 of the Vienna Convention on Consular Relations, 1963; or 15
 - (b) in relation to the family of any person referred to in subsection (1), (2), (3) or (4) of section 3, means the spouse, any unmarried child under the age of 21 years, any unmarried child between the ages of 21 and 23 years who is undertaking full-time studies at an educational institution, and any unmarried child who is 20 due to physical or mental disability incapable of self-support, and any other relative specially approved by the Minister, who forms part of the household of any such member or person, as the case may be, or who joins any such household during visits to the Republic; (vii)
 - (v) "member of staff", in relation to a person referred to in subsection (1), (2), (3) or (4) of section 3, means any person who takes part in the work of the office of such person and is employed exclusively for that purpose; (viii) 25
 - (vi) "Minister" means the Minister of Foreign Affairs; (ix)
 - (vii) "person" includes any organization or institution contemplated in section 3 (4); (x) 30
 - (viii) "regulation" means a regulation made under section 18; (xii)
 - (ix) "the Conventions" means the Vienna Convention on Diplomatic Relations, 1961, and the Vienna Convention on Consular Relations, 1963; (i)
 - (x) "the Vienna Convention on Consular Relations, 1963" means the provisions of the Vienna Convention on Consular Relations, 1963, signed at Vienna on 24 April 1963, and which are set out in Schedule 2 to this Act; (iii) 35

WET

Om nuwe voorsiening te maak betreffende die immuniteite en voorregte van verteenwoordigers van hoofde van ander state of regerings, van afgevaardigdes na internasionale konferensies, van lede en amptenare van sekere organisasies en instellings en van sekere ander persone; om gevolg te gee aan sekere bepalings van die Weense Konvensie op Diplomatieke Betrekkinge, 1961, en die Weense Konvensie op Konsulêre Betrekkinge, 1963; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 1 Junie 1989.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Woordbepaling

1. Tensy dit met die samehang onbestaanbaar is, beteken in hierdie Wet, en in die 5 Konvensies—

- (i) “die Konvensies” die Weense Konvensie op Diplomatieke Betrekkinge, 1961, en die Weense Konvensie op Konsulêre Betrekkinge, 1963; (ix)
- (ii) “die Weense Konvensie op Diplomatieke Betrekkinge, 1961” die bepalings 10 van die Weense Konvensie op Diplomatieke Betrekkinge, 1961, onderteken te Wenen op 18 April 1961, wat in vertaalde vorm in Bylae 1 by hierdie Wet uiteengesit word; (xi)
- (iii) “die Weense Konvensie op Konsulêre Betrekkinge, 1963” die bepalings 15 van die Weense Konvensie op Konsulêre Betrekkinge, 1963, onderteken te Wenen op 24 April 1963, wat in vertaalde vorm in Bylae 2 by hierdie Wet uiteengesit word; (x)
- (iv) “Direkteur-generaal” die Direkteur-generaal: Buitelandse Sake; (i)
- (v) “ernstige misdryf” ’n misdryf waarvoor iemand by skuldigbevinding 20 gevangenisstraf van vyf jaar of meer opgelê kan word; (ii)
- (vi) “hierdie Wet” ook die regulasies; (xii)
- (vii) “lid van ’n familie”—
 - (a) met betrekking tot die huishouding van ’n lid van die personeel van ’n 25 missie bedoel in Artikel 1 van die Weense Konvensie op Diplomatieke Betrekkinge, 1961, of van ’n konsulêre pos bedoel in Artikel 1.1 van die Weense Konvensie op Konsulêre Betrekkinge, 1963; of
 - (b) met betrekking tot die familie van ’n persoon bedoel in subartikel (1), 30 (2), (3) of (4) van artikel 3, die gade, enige ongetroude kind onder die ouderdom van 21 jaar, enige ongetroude kind tussen die ouderdomme van 21 en 23 jaar wat voltyds studeer aan ’n opvoedkundige inrigting en enige ongetroude kind wat weens ’n fisiese of geestesgebrek nie selfonderhoudend kan wees nie, en enige ander verwant spesiaal deur die Minister goedgekeur, wat deel vorm van die huishouding van enige sodanige lid of persoon, na gelang van die geval, of wat by enige sodanige huishouding aansluit tydens besoeke aan die Republiek; (iv)
- (viii) “lid van die personeel”, met betrekking tot ’n persoon bedoel in subartikel 35 (1), (2), (3) of (4) van artikel 3, iemand wat deelneem aan die werk van die kantoor van so ’n persoon en wat uitsluitlik vir daardie doel in diens gehou word; (v)

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- (xi) "the Vienna Convention on Diplomatic Relations, 1961" means the provisions of the Vienna Convention on Diplomatic Relations, 1961, signed at Vienna on 18 April 1961, and which are set out in Schedule 1 to this Act;
- (ii)
- (xii) "this Act" includes the regulations. (vi)

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Application of Vienna Conventions

2. (1) Subject to the provisions of this Act, the Conventions shall be observed and shall have the force and effect of law in the Republic.

(2) The State President may amend or substitute Schedule 1 or 2 of this Act by proclamation in the *Gazette*.

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(3) The Minister shall lay a copy of every proclamation published under subsection (2) upon the Table in Parliament within 14 days after the date of publication thereof in the *Gazette*, if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 14 days of its next ensuing ordinary session.

Immunities and privileges of heads of state, special envoys, representatives and certain other persons

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3. (1) Heads of state shall be immune from the criminal and civil jurisdiction of the courts of the Republic, and shall enjoy such privileges as they enjoy in accordance with the rules of customary international law, or the provisions of any agreement or law contemplated in section 4 (a), (b) and (c) (i), or by virtue of section 4 (c) (ii).

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(2) Subject to the terms of any agreement to which the Government of the Republic is a party, a special envoy from any state or government shall be immune from the criminal and civil jurisdiction of the courts of the Republic, and shall enjoy such privileges as he enjoys in accordance with the rules of customary international law, or the provisions of any agreement or law contemplated in section 4 (a), (b) and (c) (i), or by virtue of section 4 (c) (ii): Provided that the Minister has recognized such envoy for the purposes of this subsection.

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(3) A representative of another state or government, excluding any such representative contemplated in the Vienna Convention on Diplomatic Relations, 1961, or in the Vienna Convention on Consular Relations, 1963, a head of state, a special envoy, or a delegate or permanent representative referred to in subsections (1), (2) and (4), respectively, of this section, shall enjoy such immunities and privileges as he enjoys in accordance with the provisions of any agreement or law contemplated in section 4 (a), (b) and (c) (i), or by virtue of section 4 (c) (ii).

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(4) Any organization or institution recognized by the Minister for the purposes of this subsection, and a member, agent or officer of, or any delegate or permanent representative of another state or government to or with, such organization or institution, shall enjoy such privileges and immunities from the civil and criminal jurisdiction of the courts of the Republic as may be provided for, and to the extent so provided for, in any agreement to which the Government of the Republic is a party.

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(5) Immunity from the civil and criminal jurisdiction of the courts of the Republic attaching to, and the privileges enjoyed by, any person referred to in subsections (1), (2), (3) and (4) of this section, shall extend also to a person who is a member of his family or of his staff: Provided that—

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(a) the Minister has approved such member of the staff for the purposes of this subsection; and

(b) should the Republic be a party to an agreement in which provision is made for the immunities and privileges of any member of such family or staff, the provisions of such agreement shall prevail.

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(6) The provisions of paragraph 1 of Article 41 of the Vienna Convention on Diplomatic Relations, 1961, shall *mutatis mutandis* apply to any person referred to in subsection (1), (2), (3), (4) or (5) of this section, and to any person contemplated in paragraph (c) of section 4 who is not a representative contemplated in the said Vienna Convention on Diplomatic Relations, 1961, or in the Vienna Convention on Consular Relations, 1963, or a person contemplated in paragraph (a) or (b) of the said section 4.

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- (ix) "Minister" die Minister van Buitelandse Sake; (vi)
- (x) "persoon" ook enige organisasie of instelling beoog in artikel 3 (4); (vii)
- (xi) "plaaslike owerheid" enige instelling of liggaam beoog in die omskrywing van "plaaslike owerheid" in artikel 1 van die Wet op Bevordering van Plaaslike Owerheidsaangeleenthede, 1983 (Wet No. 91 van 1983); (iii)
- 5 (xii) "regulasie" 'n regulasie uitgevaardig kragtens artikel 18. (viii)

Toepassing van Weense Konvensies

2. (1) Behoudens die bepalings van hierdie Wet word die Konvensies nagekom en het hulle regs krag en -werking in die Republiek.
- 10 (2) Die Staatspresident kan Bylae 1 of 2 by hierdie Wet by proklamasie in die *Staatskoerant* wysig of vervang.
- (3) Die Minister moet 'n afskrif van elke proklamasie wat kragtens subartikel (2) gepubliseer word in die Parlement ter Tafel lê binne 14 dae na die publikasie daarvan in die *Staatskoerant*, as die Parlement dan in gewone sessie is, of, as die Parlement
- 15 nie dan in gewone sessie is nie, binne 14 dae na die aanvang van sy eersvolgende gewone sessie.

Immunitete en voorregte van hoofde van state, spesiale gesante, verteenwoordigers en sekere ander persone

3. (1) Hoofde van state is vrygestel van die kriminele en siviele jurisdiksie van die
- 20 howe van die Republiek, en geniet voorregte wat hulle geniet ooreenkomstig die reëls van internasionale gewoontereg, of die bepalings van enige ooreenkoms of wet beoog in artikel 4 (a), (b) en (c) (i), of uit hoofde van artikel 4 (c) (ii).
- (2) Onderworpe aan die bepalings van enige ooreenkoms waarby die Regering van die Republiek 'n party is, is 'n spesiale gesant van enige staat of regering vrygestel
- 25 van die kriminele en siviele jurisdiksie van die howe van die Republiek, en geniet hy enige voorregte wat hy geniet ooreenkomstig die reëls van internasionale gewoontereg, of die bepalings van enige ooreenkoms of wet beoog in artikel 4 (a), (b) en (c) (i), of uit hoofde van artikel 4 (c) (ii): Met dien verstande dat die Minister so 'n gesant vir die doeleindes van hierdie subartikel erken het.
- 30 (3) 'n Verteenwoordiger van 'n ander staat of regering, uitgesonderd so 'n verteenwoordiger beoog in die Weense Konvensie op Diplomatieke Betrekkinge, 1961, of in die Weense Konvensie op Konsulêre Betrekkinge, 1963, 'n hoof van 'n staat, 'n spesiale gesant, of 'n afgevaardigde of vaste verteenwoordiger bedoel in onderskeidelik subartikels (1), (2) en (4) van hierdie artikel, geniet immunitete en
- 35 voorregte wat hy geniet ooreenkomstig die bepalings van enige ooreenkoms of wet beoog in artikel 4 (a), (b) en (c) (i), of uit hoofde van artikel 4 (c) (ii).
- (4) 'n Organisasie of instelling wat deur die Minister vir die doeleindes van hierdie subartikel erken word, en 'n lid, agent of amptenaar van, of enige afgevaardigde of vaste verteenwoordiger van 'n ander staat of regering na of by, so 'n organisasie of
- 40 instelling, geniet die voorregte en immunitete teen die siviele en kriminele jurisdiksie van die howe van die Republiek bepaal, en in die mate aldus bepaal, in enige ooreenkoms waarby die Regering van die Republiek 'n party is.
- (5) Die immunitet teen die siviele en kriminele jurisdiksie van die howe van die Republiek verbonde aan, en die voorregte geniet deur, 'n persoon bedoel in
- 45 subartikels (1), (2), (3) en (4) van hierdie artikel, strek ook uit tot 'n lid van sy familie of van sy personeel: Met dien verstande dat—
- (a) die Minister so 'n lid van die personeel goedgekeur het vir die doeleindes van hierdie subartikel; en
 - (b) sou die Republiek 'n party wees by 'n ooreenkoms waarin voorsiening
- 50 gemaak word vir die immunitete en voorregte van enige lid van sodanige familie of personeel, die bepalings van so 'n ooreenkoms voorrang geniet.
- (6) Die bepalings van paragraaf 1 van Artikel 41 van die Weense Konvensie op Diplomatieke Betrekkinge, 1961, is *mutatis mutandis* van toepassing op enige persoon bedoel in subartikel (1), (2), (3), (4) of (5) van hierdie artikel, en op enige
- 55 persoon beoog in paragraaf (c) van artikel 4 wat nie 'n verteenwoordiger beoog in genoemde Weense Konvensie op Diplomatieke Betrekkinge, 1961, of in die Weense Konvensie op Konsulêre Betrekkinge, 1963, of 'n persoon beoog in paragraaf (a) of (b) van genoemde artikel 4 is nie.

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Conferment of immunities and privileges by agreement or otherwise**4. The State President may—**

- (a) on a basis of reciprocity and on such conditions as he may deem fit, enter into an agreement with another state or government whereby immunities and privileges are conferred upon any person referred to in subsections (1), (2), (3) and (5), respectively, of section 3; 5
- (b) on such conditions as he may deem fit, enter into an agreement with any organization or institution referred to in subsection (4) of section 3 whereby immunities and privileges are conferred upon such organization or institution, or upon a member, agent or officer of, or a delegate or a permanent representative of another state or government to or with, such organization or institution; and 10
- (c) if he is satisfied that in any particular case it is not possible or expedient to enter into an agreement contemplated in paragraph (a) or (b), and that the conferment of immunities and privileges will be in the interest of the Republic— 15
 - (i) by proclamation in the *Gazette*; or
 - (ii) in such other manner, and on such conditions, as he determines, where possible on a basis of reciprocity, confer upon any person, irrespective of whether such person is a representative contemplated in the Vienna Convention on Diplomatic Relations, 1961, or in the Vienna Convention on Consular Relations, 1963, or a person contemplated in paragraph (a) or (b), such immunities and privileges as he may so specify. 20

Publication of agreements**5. Any agreement contemplated in paragraphs (a) and (b) of section 4, and any addition thereto or amendment thereof, shall— 25**

- (a) be published by proclamation in the *Gazette*; and
- (b) on such publication have the force of law in the Republic, and shall prevail in the case of conflict between its provisions and the provisions of any law (other than this Act), or the rules of customary international law. 30

Non-application of immunities and privileges, and waiver**6. (1) Subject to the provisions of an agreement contemplated in paragraph (a) or (b) of section 4, a person referred to in section 3 shall not enjoy any immunity in the case of—**

- (a) a real action relating to private immovable property situated in the territory of the Republic and held by him, unless he holds such property on behalf of the sending State concerned or an organization or institution referred to in section 3 (4), for the purposes of his functions; 35
 - (b) an action relating to succession in which he is involved as executor, administrator, heir or legatee as a private person and not on behalf of any such sending State or organization or institution; or 40
 - (c) a civil action for damage arising from an accident in the Republic caused by a vehicle, vessel or aircraft.
- (2) A person referred to in section 3 may be exempted from taxation in accordance with the provisions of section 8, except in the case of— 45
- (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;
 - (b) dues and taxes on private immovable property referred to in subsection (1) (a), unless he holds it on behalf of the sending State or an organization or institution referred to in section 3 (4), for the purposes of his functions; and 50
 - (c) dues and taxes on private income having its source in the Republic, and capital taxes on investments made in commercial undertakings in the Republic.
- (3) (a) A sending State concerned may waive any immunity or privilege of a person referred to in subsection (2), (3) or (5) of section 3, or of a delegate to or permanent representative with an organization or institution referred to in subsection (4) of the said section 3, or of a member of the family or staff of any such person, delegate or representative. 55

Verlening van immuniteite en voorregte by ooreenkoms of andersins**4. Die Staatspresident kan—**

- (a) op 'n grondslag van wederkerigheid en op die voorwaardes wat hy dienstig ag, 'n ooreenkoms aangaan met 'n ander staat of regering waarby immuniteite en voorregte verleen word aan enige persoon bedoel in onderskeidelik subartikels (1), (2), (3) en (5) van artikel 3;
- (b) op die voorwaardes wat hy dienstig ag, 'n ooreenkoms aangaan met enige organisasie of instelling bedoel in subartikel (4) van artikel 3 waarby immuniteite en voorregte verleen word aan so 'n organisasie of instelling, of aan 'n lid, agent of amptenaar van, of 'n afgevaardigde of vaste verteenwoordiger van 'n ander staat of regering na of by, so 'n organisasie of instelling; en
- (c) indien hy oortuig is dat dit in 'n bepaalde geval nie moontlik of wenslik is om 'n ooreenkoms bedoel in paragraaf (a) of (b) aan te gaan nie, en dat die verlening van immuniteite en voorregte in die belang van die Republiek sal wees—
- (i) by proklamasie in die *Staatskoerant*; of
- (ii) op die ander wyse, en op die voorwaardes, wat hy bepaal, waar moontlik op 'n grondslag van wederkerigheid, aan enige persoon, ongeag of so 'n persoon 'n verteenwoordiger bedoel in die Weense Konvensie op Diplomatieke Betrekkinge, 1961, of in die Weense Konvensie op Konsulêre Betrekkinge, 1963, of 'n persoon beoog in paragraaf (a) of (b) is, die immuniteite en voorregte verleen wat hy aldus mag aandui.

Publikasie van ooreenkomste

5. Enige ooreenkoms bedoel in paragrawe (a) en (b) van artikel 4, en enige byvoeging daarby of wysiging daarvan—
- (a) word by proklamasie in die *Staatskoerant* gepubliseer; en
- (b) het by sodanige publikasie krag van wet in die Republiek, en geniet voorrang in die geval van strydigheid tussen die bepalings daarvan en die bepalings van enige wet (uitgesonderd hierdie Wet), of die reëls van internasionale gewoontereg.

Nie-toepassing van immuniteite en voorregte, en afstanddoening

6. (1) Onderworpe aan die bepalings van 'n ooreenkoms beoog in paragraaf (a) of (b) van artikel 4, geniet 'n persoon bedoel in artikel 3 geen immuniteit nie in die geval van—
- (a) 'n saaklike aksie betreffende persoonlike onroerende eiendom geleë in die gebied van die Republiek en deur hom besit, tensy hy sodanige eiendom namens die betrokke Senderstaat of 'n organisasie of instelling bedoel in artikel 3 (4), vir die doeleindes van sy funksies besit;
- (b) 'n aksie betreffende erfopvolging waarin hy betrokke is as eksekuteur, administrateur, erfgenaam of legataris in private hoedanigheid en nie namens enige sodanige Senderstaat of organisasie of instelling nie; of
- (c) 'n siviele aksie vir skade wat voortspruit uit 'n ongeluk in die Republiek veroorsaak deur 'n voertuig, vaartuig of vliegtuig.
- (2) 'n Persoon bedoel in artikel 3 kan vrygestel word van belasting ooreenkomstig die bepalings van artikel 8, behalwe in die geval van—
- (a) indirekte belasting van 'n soort wat normaalweg ingesluit is by die prys van goedere of dienste;
- (b) regte en belasting op persoonlike onroerende eiendom bedoel in subartikel (1) (a), tensy hy dit namens die betrokke Senderstaat of 'n organisasie of instelling bedoel in artikel 3 (4), vir die doeleindes van sy funksies besit; en
- (c) regte en belasting op private inkomste wat sy oorsprong in die Republiek het, en kapitaalbelasting op beleggings in kommersiële ondernemings in die Republiek gedoen.
- (3) (a) 'n Betrokke Senderstaat kan afstand doen van enige immuniteit of voorreg van 'n persoon bedoel in subartikel (2), (3) of (5) van artikel 3, of van 'n afgevaardigde na of 'n vaste verteenwoordiger by 'n organisasie of instelling bedoel in subartikel (4) van genoemde artikel 3, of van 'n lid van die familie of personeel van enige sodanige persoon, afgevaardigde of verteenwoordiger.

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- (b) An organization or institution referred to in section 3 (4) may waive any immunity or privilege of a member, agent or officer of such organization or institution, or of a member of any such person's family or staff.
- (c) For the purposes of paragraphs (a) and (b) and of the provisions of the Vienna Convention on Diplomatic Relations, 1961, or the Vienna Convention on Consular Relations, 1963, any waiver by the head of a mission, a consular post, an office, or an organization or institution, or by any person for the time being performing the functions of any such head, shall be deemed to be a waiver by the state, or the organization or institution, concerned.
- (d) For the purposes of this subsection, any waiver shall always be express and in writing.

Register of persons entitled to immunities or privileges

7. (1) The Minister shall cause a register to be kept in which there shall be registered the name of any person—
- (a) who enjoys immunity from the civil and criminal jurisdiction of the courts of the Republic or who enjoys privileges in accordance with the provisions of the Vienna Convention on Diplomatic Relations, 1961, or the Vienna Convention on Consular Relations, 1963;
 - (b) referred to in subsections (3) and (4) of section 3; or
 - (c) who is a member of the family or staff of a person referred to in paragraph (b), and who enjoys immunities or privileges.
- (2) The Minister shall cause a complete list of all persons on the register to be published at least once in every calendar year in the *Gazette*.
- (3) If in any proceedings in a court of law any question arises as to whether or not any person is entitled to any immunity or privilege under or by virtue of a provision of this Act or the Conventions, a certificate under the hand or issued under the authority of the Director-General stating any fact relating to that question, shall be conclusive evidence of that fact.

Exemption from taxation

8. (1) A person referred to in section 3 may be exempted from taxes, fees, rates, duties or other charges levied by the State, a provincial administration, a local authority or a statutory public utility organization, and any such exemption may apply to—
- (a) the person concerned;
 - (b) any movable property of such person; and
 - (c) so much of the income of such person as is derived directly from the holding of his office.
- (2) Any such exemption—
- (a) may only be granted to a person referred to in section 3 or to a representative contemplated in the Vienna Convention on Diplomatic Relations, 1961, or in the Vienna Convention on Consular Relations, 1963, if reciprocal treatment is or would be accorded to a South African representative or citizen corresponding in rank or position to such person by the government of that person;
 - (b) 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.

Exemptions of governments, organizations and institutions in respect of immovable property

9. (1) The Minister may with the concurrence of the Minister of Finance, and subject to subsection (2), exempt the government of a person referred to in section 3 (1), (2) or (3), or any organization or institution referred to in section 3 (4), from the payment of transfer duty or any other duties, fees, charges or other taxes payable to the State, a provincial administration or a local authority, relating to the transfer of immovable property acquired by that government, or organization or institution,

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- (b) 'n Organisasie of instelling bedoel in artikel 3 (4) kan afstand doen van enige immuniteit of voorreg van 'n lid, agent of amptenaar van so 'n organisasie of instelling, of van 'n lid van so iemand se familie of personeel.
- 5 (c) By die toepassing van paragrawe (a) en (b) en van die bepalings van die Weense Konvensie op Diplomatieke Betrekkinge, 1961, of die Weense Konvensie op Konsulêre Betrekkinge, 1963, word enige afstanddoening deur die hoof van 'n missie, 'n konsulêre pos, 'n kantoor of 'n organisasie of instelling, of deur iemand wat tydelik die funksies van so 'n hoof verrig, geag 'n afstanddoening deur die betrokke staat, of organisasie of instelling,
- 10 te wees.
- (d) By die toepassing van hierdie subartikel moet 'n afstanddoening altyd uitdruklik en skriftelik wees.

Register van persone geregtig op immuniteite of voorregte

7. (1) Die Minister laat 'n register hou waarin die naam geregistreer word van
15 enige persoon—

- (a) wat immuniteit geniet teen die siviele en kriminele jurisdiksie van die houe van die Republiek of voorregte geniet ooreenkomstig die bepalings van die Weense Konvensie op Diplomatieke Betrekkinge, 1961, en die Weense Konvensie op Konsulêre Betrekkinge, 1963;
- 20 (b) bedoel in subartikels (3) en (4) van artikel 3; of
- (c) wat lid is van die familie of personeel van 'n persoon bedoel in paragraaf (b), en wat immuniteite of voorregte geniet.

(2) Die Minister laat ten minste een keer in elke kalenderjaar 'n volledige lys van alle persone op die register publiseer in die *Staatskoerant*.

25 (3) Indien in enige verrigtinge in 'n geregshof die vraag ontstaan of 'n persoon kragtens of uit hoofde van 'n bepaling van hierdie Wet of die Konvensies geregtig is op enige immuniteit of voorreg, is 'n sertifikaat uitgereik deur of onder die gesag van die Direkteur-generaal waarin enige feit betreffende so 'n vraag vermeld word, afdoende bewys van daardie feit.

30 Vrystelling van belasting

8. (1) 'n Persoon bedoel in artikel 3 kan vrygestel word van belastings, gelde, tariewe, heffings of ander vorderings gehef deur die Staat, 'n provinsiale administrasie, 'n plaaslike owerheid of 'n statutêre openbare utiliteitsorganisasie, en enige sodanige vrystelling kan van toepassing wees op—

- 35 (a) die betrokke persoon;
- (b) enige roerende eiendom van so 'n persoon; en
- (c) soveel van die inkomste van so 'n persoon as wat direk voortspruit uit die bekleding van sy amp.

(2) Enige sodanige vrystelling—

- 40 (a) word slegs verleen aan 'n persoon bedoel in artikel 3 of aan 'n verteenwoordiger beoog in die Weense Konvensie op Diplomatieke Betrekkinge, 1961, of die Weense Konvensie op Konsulêre Betrekkinge, 1963, indien wederkerige behandeling deur die regering van so 'n persoon verleen word of sou word aan 'n Suid-Afrikaanse verteenwoordiger of burger wie se rang of posisie ooreenstem met dié van so 'n persoon;
- 45 (b) word nie uitgelê as sou dit so 'n persoon vrystel van die nodigheid om te voldoen aan enige formaliteite ten opsigte van die invoer van goedere wat in enige wet met betrekking tot doeane voorgeskryf word nie.

Vrystelling van regerings, organisasies en instellings ten opsigte van onroerende goed

50 9. (1) Die Minister kan met die instemming van die Minister van Finansies, en behoudens subartikel (2), die regering van 'n persoon bedoel in artikel 3 (1), (2) of (3), of 'n organisasie of instelling bedoel in artikel 3 (4), vrystel van die betaling van hereregte of enige ander regte, gelde, vorderings of ander belastings betaalbaar aan die Staat, 'n provinsiale administrasie of 'n plaaslike owerheid, in verband met die

55 oordrag van onroerende eiendom verkry deur daardie regering, of organisasie of

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as the case may be, for official purposes in the Republic, and from the payment of rates, taxes, fees or other charges levied on or in respect of such property.

(2) The Minister shall only grant exemption in terms of subsection (1) to a government if he is satisfied that reciprocal treatment is or would be accorded to the Government of the Republic by such government.

5

Restriction on immunities, privileges and exemptions

10. If it appears at any time to the Minister—

- (a) that the immunities and privileges accorded to a mission of the Republic in the territory of any state, or to any person connected with any such mission, are less than those conferred in the Republic on the mission of that state, 10 or on any person connected with that mission; or
- (b) that the exemptions granted to the Government of the Republic in the territory of any state are less than those granted by the Minister to that state,

the Minister may withdraw so much of the immunities, privileges and exemptions so 15 accorded or granted by him as appears to him to be proper.

Adjustment of loss of revenue to local authorities and statutory public utility organizations

11. The loss of revenue caused to any local authority or statutory public utility organization by reason of the provisions of section 8 or 9, or of the Conventions 20 relating to exemptions, shall be made good to such authority or organization out of funds provided by Parliament for that purpose.

Recognition of certain buildings

12. The State President may by notice in the *Gazette* recognize any building or premises occupied by a person referred to in section 3, or a representative 25 contemplated in the Vienna Convention on Diplomatic Relations, 1961, or the Vienna Convention on Consular Relations, 1963, for the purposes of a chancellery, official residence, embassy, legation, office or residence of such person or representative.

Exemption from restrictions on acquisition or occupation of immovable property 30

13. No law or condition in a title deed which prohibits the acquisition or occupation of immovable property by any person belonging to any particular racial group shall be construed as prohibiting—

- (a) the acquisition of any immovable property by a person referred to in section 3 or a representative contemplated in the Vienna Convention on 35 Diplomatic Relations, 1961, or the Vienna Convention on Consular Relations, 1963, for the performance of his functions as such person;
- (b) the acquisition of any immovable property by an entity seated in another state the activities of which in the opinion of the Minister are in the interests of the Republic and which is recognized by the Minister for the purposes of 40 this paragraph; or
- (c) the occupation of immovable property by any person or representative referred to in paragraph (a) or by a person who represents or is in the employ of an entity contemplated in paragraph (b), and whose occupation is approved by the Minister, or by the family, staff or alien servants of any 45 such person or representative:

Provided that such immovable property is acquired or occupied exclusively for the purposes of the chancellery, post, office or residence of any such person, representative or entity.

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instelling, na gelang van die geval, vir amptelike doeleindes in die Republiek, en van die betaling van tariewe, belasting, gelde of ander vorderings gehef op of ten opsigte van sodanige eiendom.

- (2) Die Minister verleen slegs vrystelling ingevolge subartikel (1) aan 'n regering as hy oortuig is dat wederkerige behandeling verleen word of sou word aan die Regering van die Republiek deur so 'n regering.

Beperking op immuniteite, voorregte en vrystellings

10. Indien dit die Minister te eniger tyd voorkom—

- 10 (a) dat die immuniteite en voorregte wat verleen word aan 'n missie van die Republiek in die gebied van enige staat, of aan enige persoon verbonde aan enige sodanige missie, minder is as dié wat verleen word in die Republiek aan die missie van daardie staat, of aan enige persoon verbonde aan daardie missie; of
- 15 (b) dat die vrystellings wat verleen word aan die Regering van die Republiek in die gebied van enige staat minder is as dié wat deur die Minister aan daardie staat verleen word,
- kan die Minister soveel van die immuniteite, voorregte en vrystellings aldus deur hom verleen as wat die Minister geskik ag, intrek.

Aansuiwering van verlies aan inkomste vir plaaslike owerhede en statutêre openbare utiliteitsorganisasies

11. Die verlies aan inkomste wat vir enige plaaslike owerheid of statutêre openbare utiliteitsorganisasie teweeggebring word op grond van die bepalings van artikels 8 en 9, of van die Konvensies betreffende vrystellings, word aan sodanige plaaslike owerheid of organisasie vergoed uit fondse wat vir dié doel deur die
- 25 Parlement bewillig word.

Erkenning van sekere geboue

12. Die Staatspresident kan by kennisgewing in die *Staatskoerant* enige gebou of perseel geokkupeer deur 'n persoon bedoel in artikel 3, of 'n verteenwoordiger beoog in die Weense Konvensie op Diplomatieke Betrekkinge, 1961, of die Weense
- 30 Konvensie op Konsulêre Betrekkinge, 1963, vir die doeleindes van 'n kanselary, amptelike woning, ambassade, gesantskap, kantoor of woning van so 'n persoon of verteenwoordiger, erken.

Vrystelling van beperkings op verkryging of okkupasie van onroerende eiendom

13. Geen wet of voorwaarde in 'n titelbewys wat die verkryging of okkupasie
- 35 verbied van onroerende eiendom deur enige persoon wat tot 'n bepaalde rassegroep behoort, word so uitgelê dat—

- (a) die verkryging van enige onroerende eiendom deur 'n persoon bedoel in artikel 3 of 'n verteenwoordiger beoog in die Weense Konvensie op Diplomatieke Betrekkinge, 1961, of die Weense Konvensie op Konsulêre
- 40 Betrekkinge, 1963, vir die uitoefening van sy funksies as so 'n persoon, daardeur verbied word nie;
- (b) die verkryging van enige onroerende eiendom deur 'n instansie gesetel in 'n ander staat wie se aktiwiteite na die oordeel van die Minister in belang is van die Republiek en wat erken word deur die Minister vir die doeleindes van hierdie paragraaf, daardeur verbied word nie; of
- 45 (c) die okkupasie van onroerende eiendom deur 'n persoon of verteenwoordiger bedoel in paragraaf (a) of deur 'n persoon wat 'n instansie bedoel in paragraaf (b) verteenwoordig of in sy diens is, en wie se okkupasie goedgekeur is deur die Minister, of die familie, personeel of vreemde bediendes van so 'n persoon of verteenwoordiger, daardeur verbied word
- 50 nie:

Met dien verstande dat sodanige onroerende eiendom uitsluitlik verkry of geokkupeer word vir die doeleindes van die kanselary, pos, kantoor of woning van so 'n persoon, verteenwoordiger of instansie.

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Acquisition, construction, relocation, renovation, replacement, extension or lease of immovable property in the Republic

14. (1) All foreign missions or consular posts, or organizations or institutions referred to in section 3 (4), shall submit a written request to the Director-General for acquiring, constructing, relocating, renovating, replacing, extending or leasing immovable property in the Republic in the name of or on behalf of the mission or post or its government, or the organization or institution, concerned, or in the name or on behalf of any person referred to in section 3, or any representative contemplated in the Vienna Convention on Diplomatic Relations, 1961, or the Vienna Convention on Consular Relations, 1963. 5 10

(2) Any such request shall consist of a narrative and graphic description of, and indicate the reasons for, the proposed acquisition, construction, relocation, renovation, replacement, extension or leasing.

(3) No deed of transfer of land shall be registered in accordance with the provisions of the Deeds Registries Act, 1937 (Act No. 47 of 1937), in the name of any such government, mission, post, organization, institution, person, or representative unless the Director-General has informed the Registrar of Deeds in writing that he approves of such registration. 15

(4) Diplomatic missions established in the Republic in accordance with the provisions of the Vienna Convention on Diplomatic Relations, 1961, or other rules of customary international law, shall be located in Pretoria or, during sessions of Parliament, in Cape Town. 20

Liability insurance requirements

15. The Minister shall by regulation prescribe liability insurance requirements to be met by any person referred to in section 3 or contemplated in the Vienna Convention on Diplomatic Relations, 1961, or the Vienna Convention on Consular Relations, 1963, who enjoys immunities or privileges, relating to risks arising from the operation by such person of any motor vehicle, vessel or aircraft in the Republic. 25

Application of immunities and privileges to and conferment thereof upon South African citizens or permanent residents of the Republic

30

16. (1) The immunities and privileges provided for in this Act and in the Conventions shall not apply to or be conferred upon any South African citizen or other person permanently resident in the Republic: Provided that—

- (a) the said immunities and privileges may apply to or be conferred upon a South African citizen who is also a citizen of a state the territory of which formerly formed part of the Republic, provided that such state on a basis of reciprocity applies similar immunities and privileges to a citizen of such a state who is also a South African citizen or confers them upon him, or would so apply or confer them; or 35
- (b) if the Government of the Republic has by agreement with an organization or institution referred to in section 3 (4), undertaken to confer any immunity or privilege upon a South African citizen who is a representative of another government with such organization or institution, or who is a member, agent or officer of such organization or institution, the agreed immunities and privileges shall apply also to such South African citizen. 40 45

(2) Notwithstanding anything to the contrary contained in the Defence Act, 1957 (Act No. 44 of 1957), a member, agent or officer of an organization or institution referred to in section 3 (4), and who is a South African citizen, shall be exempt from any service under the said Act as a South African citizen.

Verkryging, konstruksie, hervestiging, opknapping, vervanging, uitbreiding of huur van onroerende eiendom in die Republiek

14. (1) Alle buitelandse missies of konsulêre poste, of organisasies of instellings bedoel in artikel 3 (4), lê 'n geskrewe versoek aan die Direkteur-generaal voor vir die
5 verkryging, konstruksie, hervestiging, opknapping, vervanging, uitbreiding of huur van onroerende eiendom in die Republiek in die naam van of namens die betrokke missie of pos of die regering daarvan, of die betrokke organisasie of instelling, of in die naam of ten behoeve van 'n persoon bedoel in artikel 3, of 'n verteenwoordiger beoog in die Weense Konvensie op Diplomatieke Betrekkinge, 1961, of die Weense
10 Konvensie op Konsulêre Betrekkinge, 1963.

(2) Enige sodanige versoek bestaan uit 'n relaas en grafiese beskrywing van, en dui die redes aan vir, die voorgestelde verkryging, konstruksie, hervestiging, opknapping, vervanging, uitbreiding of huur.

(3) Geen titelbewys van oordrag van grond word ooreenkomstig die bepalings van
15 die Wet op die Registrasie van Aktes, 1937 (No. 47 van 1937), in die naam van so 'n regering, missie, pos, organisasie, instelling, persoon of verteenwoordiger geregistreer nie tensy die Direkteur-generaal die Registrateur van Aktes skriftelik meegedeel het dat hy sodanige registrasie goedkeur.

(4) Diplomatieke missies ingestel in die Republiek ooreenkomstig die bepalings
20 van die Weense Konvensie op Diplomatieke Betrekkinge, 1961, of ander reëls van internasionale gewoontereg, word gevestig te Pretoria of, tydens sessies van die Parlement, te Kaapstad.

Vereistes vir aanspreeklikheidsversekering

15. Die Minister skryf by regulasie vereistes voor vir aanspreeklikheidsversekering
25 wat nagekom moet word deur enige persoon bedoel in artikel 3 of beoog in die Weense Konvensie op Diplomatieke Betrekkinge, 1961, of die Weense Konvensie op Konsulêre Betrekkinge, 1963, wat immuniteite of voorregte geniet, met betrekking tot risiko's wat voortspruit uit die bestuur deur so 'n persoon van enige motorvoertuig, vaartuig of vliegtuig in die Republiek.

30 Toepassing van immuniteite en voorregte op en verlening daarvan aan Suid-Afrikaanse burgers of permanente inwoners van die Republiek

16. (1) Die immuniteite en voorregte waarvoor in hierdie Wet en in die Konvensies voorsiening gemaak word, word nie toegepas op of verleen aan enige
35 Suid-Afrikaanse burger of ander persoon wat permanent in die Republiek woonagtig is nie: Met dien verstande dat—

(a) bedoelde immuniteite en voorregte toegepas kan word op of verleen kan word aan 'n Suid-Afrikaanse burger wat ook 'n burger is van 'n staat waarvan die gebied voorheen deel uitgemaak het van die Republiek, mits
40 so 'n staat op 'n grondslag van wederkerigheid soortgelyke immuniteite en voorregte op 'n burger van so 'n staat wat ook 'n Suid-Afrikaanse burger is, toepas of aan hom verleen, of aldus sou toepas of verleen; of

(b) indien die Regering van die Republiek by ooreenkoms met 'n organisasie of instelling bedoel in artikel 3 (4) onderneem het om enige immuniteit of voorreg aan 'n Suid-Afrikaanse burger wat 'n verteenwoordiger van 'n
45 ander regering by so 'n organisasie of instelling is, of wat 'n lid, agent of amptenaar van so 'n organisasie of instelling is, te verleen, die ooreengekome immuniteite en voorregte ook op so 'n Suid-Afrikaanse burger toegepas word.

(2) Ondanks andersluidende bepalings in die Verdedigingswet, 1957 (Wet No. 44
50 van 1957), is 'n lid, agent of amptenaar van 'n organisasie of instelling bedoel in artikel 3 (4), en wat 'n Suid-Afrikaanse burger is, vrygestel van diens kragtens genoemde Wet as 'n Suid-Afrikaanse burger.

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Legal personality of certain organizations and institutions

17. An organization or institution referred to in section 3 (4) shall, to the extent consistent with the instrument creating it, be vested in the Republic with the legal capacity of a body corporate.

Regulations

5

18. The Minister may by regulation provide for any matter which is by any provision of this Act required or permitted to be so provided for or which, in his opinion, is necessary or convenient to be provided for in order to carry out or give effect to the provisions of this Act or of the Conventions, including the construction of words or expressions which occur in the Conventions as applied in the Republic, 10 or to achieve the objects of this Act in any other respect.

Offences and penalties

19. (1) Any person who wilfully or without the exercise of reasonable care sues out, obtains or executes any legal process against a person referred to in section 3 who enjoys immunity, or against a person who enjoys immunity in terms of the 15 Vienna Convention on Diplomatic Relations, 1961, or the Vienna Convention on Consular Relations, 1963, whether as party, attorney or officer concerned with issuing or executing such process, shall be guilty of an offence.

(2) Any person who contravenes a provision of subsection (1) or who wilfully or without the exercise of reasonable care commits any other offence which has the 20 effect of infringing the inviolability of any person contemplated in subsection (1), or of his property or of the premises occupied by him, shall be liable on conviction to a fine not exceeding R12 000 or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

Repeal of laws

25

20. (1) The laws mentioned in Schedule 3 are hereby repealed to the extent indicated in the third column thereof.

(2) Anything done under or by virtue of a provision of a law repealed by subsection (1), and which could be done under or by virtue of any provision of this Act, shall be deemed to have been done under or by virtue of such last-mentioned 30 provision.

Short title and commencement

21. This Act shall be called the Diplomatic Immunities and Privileges Act, 1989, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. 35

Schedule I

PROVISIONS OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS, 1961, HAVING THE FORCE OF LAW IN THE REPUBLIC

Article 1

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

- (a) the "head of the mission" is the person charged by the sending State with the duty of acting in that capacity;
- (b) the "members of the mission" are the head of the mission and the members of the staff of the mission;

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Regspersoonlikheid van sekere organisasies en instellings

17. 'n Organisasie of instelling bedoel in artikel 3 (4) is, vir sover dit in ooreenstemming is met die instrument waardeur dit in die lewe geroep is, in die Republiek bekleed met die regsbevoegdheid van 'n regspersoon.

5 Regulasies

18. Die Minister kan by regulasie voorsiening maak vir enige aangeleentheid waarvoor by 'n bepaling van hierdie Wet aldus voorsiening gemaak moet of kan word of waarvoor dit, volgens sy oordeel, nodig of dienstig is om voorsiening te maak ten einde die bepalings van hierdie Wet of van die Konvensies uit te voer of daaraan gevolg te gee, met inbegrip van die uitleg van woorde of uitdrukkings wat in die Konvensies soos toegepas in die Republiek, voorkom, of die oogmerke van hierdie Wet in enige ander opsig te bereik.

Misdrywe en strawwe

19. (1) Enige persoon wat opsetlik of sonder die uitoefening van redelike sorg 'n geregtelike prosesstuk uitreik, verkry of ten uitvoer lê teen 'n persoon bedoel in artikel 3 wat immuniteit geniet, of 'n persoon wat immuniteit geniet ingevolge die Weense Konvensie op Diplomatieke Betrekkinge, 1961, of die Weense Konvensie op Konsulêre Betrekkinge, 1963, hetsy as party, 'n prokureur of 'n beampte wat by die uitreiking of tenuitvoerlegging van prosesstukke betrokke is, is skuldig aan 'n misdryf.

(2) Enige persoon wat 'n bepaling van subartikel (1) oortree of wat opsetlik of sonder die uitoefening van redelike sorg enige ander misdryf pleeg wat die gevolg het dat inbreuk gemaak word op die onskendbaarheid van 'n persoon bedoel in subartikel (1), of van sy eiendom of van persele deur hom bewoon, is by skuldigbevinding strafbaar met 'n boete van hoogstens R12 000 of met gevangenisstraf vir 'n tydperk van hoogstens drie jaar of met daardie boete sowel as daardie gevangenisstraf.

Herroeping van wette

20. (1) Die wette vermeld in Bylae 3 word hierby herroep in die mate aangedui in die derde kolom daarvan.

(2) Enigiets gedoen kragtens of uit hoofde van 'n bepaling van 'n wet wat by subartikel (1) herroep word, en wat kragtens of uit hoofde van 'n bepaling van hierdie Wet gedoen sou kon word, word geag kragtens of uit hoofde van so 'n laasbedoelde bepaling gedoen te wees.

35 Kort titel en inwerkingtreding

21. Hierdie Wet heet die Wet op Diplomatieke Immuniteite en Voorregte, 1989, en tree in werking op 'n datum deur die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

Bylae 1

BEPALINGS VAN DIE WEENSE KONVENSYE OP DIPLOMATIEKE BETREKKINGE, 1961, WAT REGSKRAG IN DIE REPUBLIEK HET

Artikel 1

By die toepassing van hierdie Konvensie dra die volgende uitdrukkings die betekenis wat hieronder daaraan geheg word:

- (a) die "hoof van die missie" is die persoon aan wie die Senderstaat die plig opgelê het om in daardie hoedanigheid op te tree;
- (b) die "lede van die missie" is die hoof van die missie en die lede van die personeel van die missie;

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- (c) the "members of the staff of the mission" are the members of the diplomatic staff, of the administrative and technical staff and of the service staff of the mission;
- (d) the "members of the diplomatic staff" are the members of the staff of the mission having diplomatic rank;
- (e) a "diplomatic agent" is the head of the mission or a member of the diplomatic staff of the mission;
- (f) the "members of the administrative and technical staff" are the members of the mission employed in the administrative and technical service of the mission;
- (g) the "members of the service staff" are the members of the staff of the mission in the domestic service of the mission;
- (h) a "private servant" is a person who is in the domestic service of a member of the mission and who is not an employee of the sending State;
- (i) the "premises of the mission" are the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of the mission including the residence of the head of the mission.

Article 22

1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.

2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

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

Article 23

1. The sending State and the head of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in this Article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or the head of the mission.

Article 24

The archives and documents of the mission shall be inviolable at any time and wherever they may be.

Article 27

1. The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and the other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.

3. The diplomatic bag shall not be opened or detained.

4. The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only diplomatic documents or articles intended for official use.

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- (c) die "lede van die personeel van die missie" is die lede van die diplomatieke personeel, van die administratiewe en tegniese personeel en van die dienspersoneel van die missie;
- (d) die "lede van die diplomatieke personeel" is die lede van die personeel van die missie wat diplomatieke rang beklee;
- (e) 'n "diplomatieke agent" is die hoof van die missie of 'n lid van die diplomatieke personeel van die missie;
- (f) die "lede van die administratiewe en tegniese personeel" is die lede van die missie wat aangewend word in die administratiewe en tegniese diens van die missie;
- (g) die "lede van die dienspersoneel" is die lede van die personeel van die missie in die huishoudelike diens van die missie;
- (h) 'n "private bediende" is 'n persoon wat in die huishoudelike diens is van 'n lid van die missie en wat nie 'n werknemer van die Senderstaat is nie;
- (i) die "perseel van die missie" is die geboue of dele van geboue en die grond bykomstig daarby, ongeag wie die eienaar daarvan is, wat gebruik word vir die doeleindes van die missie, met inbegrip van die woning van die hoof van die missie.

Artikel 22

1. Die perseel van die missie is onskendbaar. Die agente van die Ontvangerstaat mag dit nie betree nie, behalwe met die toestemming van die hoof van die missie.

2. Die Ontvangerstaat staan onder 'n besondere verpligting om alle geskikte maatreëls te tref om die perseel van die missie te beskerm teen enige indringing of skade en om enige versteuring van die vrede van die missie of inbreukmaking op die waardigheid daarvan te voorkom.

3. Die perseel van die missie, sy meublement en ander eiendom daarop en die vervoermiddele van die missie geniet immuniteit teen deursoeking, opeising, beslaglegging of eksekusie.

Artikel 23

1. Die Senderstaat en die hoof van die missie is vrygestel van alle nasionale, streeks- of munisipale regte en belastinge ten opsigte van die perseel van die missie, ongeag of dit besit of gehuur word, uitgesonderd dié wat betaling vir spesifieke dienste gelewer, verteenwoordig.

2. Die vrystelling van belasting bedoel in hierdie Artikel is nie van toepassing nie op sodanige regte en belastinge as wat kragtens die reg van die Ontvangerstaat deur persone wat met die Senderstaat of die hoof van die missie kontrakteer, betaalbaar is.

Artikel 24

Die argiewe en dokumente van die missie is te alle tye en waar dit ook al mag wees, onskendbaar.

Artikel 27

1. Die Ontvangerstaat moet vrye kommunikasie deur die missie vir alle amptelike doeleindes toelaat en beskerm. By kommunikasie met die Regering en die ander missies en konsulate van die Senderstaat, waar ook al geleë, mag die missie alle geskikte middele, met inbegrip van diplomatieke koeriers en boodskappe in kode of syferkode, gebruik. Die missie mag egter 'n draadlose sender slegs met die toestemming van die Ontvangerstaat installeer en gebruik.

2. Die amptelike korrespondensie van die missie is onskendbaar. Amptelike korrespondensie beteken alle korrespondensie met betrekking tot die missie en sy funksies.

3. Die diplomatieke sak mag nie oopgemaak of teruggehou word nie.

4. Die houe wat die diplomatieke sak uitmaak, moet sigbare merke van hul aard aan die buitekant daarvan vertoon en mag slegs diplomatieke dokumente of artikels bedoel vir amptelike gebruik, bevat.

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5. The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State or the mission may designate diplomatic couriers *ad hoc*. In such cases the provisions of paragraph 5 of this Article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.

7. A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

Article 28

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

Article 29

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

Article 30

1. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.

2. His papers, correspondence and, except as provided in paragraph 3 of Article 31, his property, shall likewise enjoy inviolability.

Article 31

1. A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of:

- (a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
- (b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
- (c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

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

3. No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under sub-paragraphs (a), (b) and (c) of paragraph 1 of this Article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.

4. The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State.

Article 32

1. The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under Article 37 may be waived by the sending State.

2. Waiver must always be express.

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5. Die diplomatieke koerier, wat voorsien moet word van 'n amptelike dokument wat sy status en die aantal houters wat die diplomatieke sak uitmaak, aandui, moet deur die Ontvangerstaat by die uitvoering van sy funksies beskerm word. Hy geniet persoonlike onskendbaarheid en is nie onderhewig aan enige vorm van arrestasie of aanhouding nie.

6. Die Senderstaat of die missie mag diplomatieke koeriers *ad hoc* aanwys. In sodanige gevalle is die bepalings van paragraaf 5 van hierdie Artikel ook van toepassing, behalwe dat die immuniteite wat daarin genoem word, ophou om van toepassing te wees wanneer sodanige koerier die diplomatieke sak wat aan hom toevertrou is, aan die geadresseerde afgelewer het.

7. 'n Diplomatieke sak mag toevertrou word aan die kaptein van 'n handelsvliegtuig wat geskeduleer is om by 'n gemagtigde poort van binnekoms te land. Hy moet voorsien word van 'n amptelike dokument wat die aantal houters wat die diplomatieke sak uitmaak, aandui, maar hy word nie geag 'n diplomatieke koerier te wees nie. Die missie mag een van sy lede stuur om direk en vryelik besit van die diplomatieke sak by die kaptein van die vliegtuig te neem.

Artikel 28

Die gelde en vorderings wat deur die missie in die loop van sy amptelike funksies gehef word, is van alle regte en belastinge vrygestel.

Artikel 29

Die persoon van 'n diplomatieke agent is onskendbaar. Hy is nie onderhewig aan enige vorm van arrestasie of aanhouding nie. Die Ontvangerstaat behandel hom met verskuldigde eerbied en tref alle geskikte maatreëls om enige aanval op sy persoon, vryheid of waardigheid te voorkom.

Artikel 30

1. Die private woning van 'n diplomatieke agent geniet dieselfde onskendbaarheid en beskerming as die perseel van die missie.

2. Sy stukke, korrespondensie en, behalwe soos bepaal in paragraaf 3 van Artikel 31, sy eiendom, geniet insgelyks onskendbaarheid.

Artikel 31

1. 'n Diplomatieke agent geniet immuniteit teen die kriminele jurisdiksie van die Ontvangerstaat. Hy geniet ook immuniteit teen sy siviele en administratiewe jurisdiksie, behalwe in die geval van:

- (a) 'n saaklike aksie met betrekking tot private onroerende eiendom geleë in die gebied van die Ontvangerstaat, tensy hy dit namens die Senderstaat vir die doeleindes van die missie besit;
- (b) 'n aksie betreffende erfopvolging waarin die diplomatieke agent as eksekuteur, administrateur, erfgenaam of legataris as 'n privaatspersoon en nie namens die Senderstaat nie, betrokke is;
- (c) 'n aksie met betrekking tot enige professionele of handelsaktiwiteit deur die diplomatieke agent uitgeoefen in die Ontvangerstaat buite sy amptelike funksies.

2. 'n Diplomatieke agent is nie verplig om as 'n getuie te getuig nie.

3. Geen eksekusiemaatreëls mag ten opsigte van 'n diplomatieke agent getref word nie behalwe in die gevalle wat onder subparagrafe (a), (b) en (c) van paragraaf 1 van hierdie Artikel val, en mits die betrokke maatreëls getref kan word sonder om inbreuk te maak op die onskendbaarheid van sy persoon of van sy woning.

4. Die immuniteit van 'n diplomatieke agent teen die jurisdiksie van die Ontvangerstaat stel hom nie vry van die jurisdiksie van die Senderstaat nie.

Artikel 32

1. Die Senderstaat mag afstand doen van die immuniteit teen jurisdiksie van diplomatieke agente en van persone wat immuniteit kragtens Artikel 37 geniet.

2. Afstanddoening moet altyd uitdruklik wees.

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3. The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under Article 37 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

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

Article 33

1. Subject to the provisions of paragraph 3 of this Article, a diplomatic agent shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall also apply to private servants who are in the sole employ of a diplomatic agent, on condition:

(a) that they are not nationals of or permanently resident in the receiving State; and

(b) that they are covered by the social security provisions which may be in force in the sending State or a third State.

3. A diplomatic agent who employs persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State provided that such participation is permitted by that State.

5. The provisions of this Article shall not affect bilateral or multilateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

Article 34

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

- (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;
- (b) dues and taxes on private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
- (c) estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of Article 39;
- (d) dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property, subject to the provisions of Article 23.

Article 35

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

Article 36

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

- (a) articles for the official use of the mission;

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3. Die instel van verrigtinge deur 'n diplomatieke agent of deur 'n persoon wat immuniteit kragtens Artikel 37 geniet, verhinder hom om immuniteit teen jurisdiksie aan te voer ten opsigte van enige teeneis wat direk verband hou met die hoofeis.

4. Afstanddoening van immuniteit teen jurisdiksie met betrekking tot siviele of administratiewe verrigtinge word nie geag afstanddoening van immuniteit ten opsigte van die tenuitvoerlegging van 'n vonnis te impliseer nie, waarvoor 'n afsonderlike afstanddoening nodig is.

Artikel 33

1. Behoudens die bepalings van paragraaf 3 van hierdie Artikel is 'n diplomatieke agent met betrekking tot dienste wat hy aan die Senderstaat lewer, vrygestel van bepalings betreffende sosiale sekuriteit wat in die Ontvangerstaat van toepassing mag wees.

2. Die vrystelling waarvoor in paragraaf 1 van hierdie Artikel voorsiening gemaak word, is ook op private bediendes wat in die uitsluitlike diens van die diplomatieke agent staan, van toepassing, op voorwaarde:

- (a) dat hulle nie burgers van of permanent woonagtig in die Ontvangerstaat is nie; en
- (b) dat hulle deur die bepalings betreffende sosiale sekuriteit wat in die Senderstaat of in 'n derde Staat van toepassing mag wees, gedek word.

3. 'n Diplomatieke agent wat persone in diens het op wie die vrystelling waarvoor in paragraaf 2 van hierdie Artikel voorsiening gemaak word, nie van toepassing is nie, moet die verpligtinge wat die bepalings betreffende sosiale sekuriteit van die Ontvangerstaat werkgewers oplê, nakom.

4. Die vrystelling waarvoor voorsiening gemaak word in paragrawe 1 en 2 van hierdie Artikel verhinder nie vrywillige deelname aan die sosiale sekuriteit-stelsel van die Ontvangerstaat nie mits sodanige deelname deur daardie Staat toegelaat word.

5. Die bepalings van hierdie Artikel raak nie bilaterale of multilaterale ooreenkomste betreffende sosiale sekuriteit wat voorheen aangegaan is nie en verhinder nie die aangaan van sodanige ooreenkomste in die toekoms nie.

Artikel 34

'n Diplomatieke agent is vrygestel van alle persoonlike of saaklike, nasionale, streeks- of munisipale regte en belastinge, uitgesonderd:

- (a) indirekte belastinge van 'n soort wat normaalweg ingesluit word in die prys van goedere of dienste;
- (b) regte en belastinge op private onroerende eiendom geleë in die gebied van die Ontvangerstaat, tensy hy dit namens die Senderstaat vir die doeleindes van die missie besit;
- (c) boedel- of erfopvolgingsregte gehef deur die Ontvangerstaat, onderworpe aan die bepalings van paragraaf 4 van Artikel 39;
- (d) regte en belastinge op private inkomste wat sy oorsprong in die Ontvangerstaat het en kapitale belastinge op beleggings wat in handelsondernemings in die Ontvangerstaat gedoen is;
- (e) gelde gehef vir bepaalde dienste gelewer;
- (f) registrasie-, hof- of rekordgelde, verbandgelde en seëlreg, met betrekking tot onroerende eiendom, onderworpe aan die bepalings van Artikel 23.

Artikel 35

Die Ontvangerstaat stel diplomatieke agente vry van alle persoonlike dienste, van alle openbare dienste van enige aard hoegenaamd, en van militêre verpligtinge soos dié wat verband hou met rekwisisie, militêre kontribusies en inkwartiering.

Artikel 36

1. Die Ontvangerstaat moet, ooreenkomstig wette en regulasies wat hy mag aanneem, binnekoms toelaat van, en vrystelling verleen van alle doeaneregte, -belastinge en aanverwante gelde uitgesonderd gelde vir bergings-, vervoer- en soortgelyke dienste, op:

- (a) artikels vir die amptelike gebruik van die missie;

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- (b) articles for the personal use of a diplomatic agent or members of his family forming part of his household, including articles intended for his establishment.

2. The personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this Article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his authorized representative.

Article 37

1. The members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in Articles 29 to 36.

2. Members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households, shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in Articles 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of Article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in Article 36, paragraph 1, in respect of articles imported at the time of first installation.

3. Members of the service staff of the mission who are not nationals of or permanently resident in the receiving State shall enjoy immunity in respect of acts performed in the course of their duties, exemption from dues and taxes on the emoluments they receive by reason of their employment and the exemption contained in Article 33.

4. Private servants of members of the mission shall, if they are not nationals of or permanently resident in the receiving State, be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects, they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 39

1. Every person entitled to privileges and immunities shall enjoy them from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or such other ministry as may be agreed.

2. When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.

3. In case of the death of a member of the mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.

4. In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of his family forming part of his household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death. Estate, succession and inheritance duties shall not be levied on movable property the presence of which in

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- (b) artikels vir die persoonlike gebruik van 'n diplomatieke agent of lede van sy familie wat deel van sy huishouding uitmaak, met inbegrip van artikels bedoel vir sy vestiging.

2. Die persoonlike bagasie van 'n diplomatieke agent is vrygestel van inspeksie, tensy daar ernstige redes bestaan om te vermoed dat dit artikels bevat wat nie gedek word deur vrystellings wat in paragraaf 1 van hierdie Artikel genoem word nie, of artikels waarvan die invoer of uitvoer verbied word deur die reg of beheer word deur die kwarantynregulasies van die Ontvangerstaat. Sodanige inspeksie moet slegs in die teenwoordigheid van die diplomatieke agent of van sy gemagtigde verteenwoordiger uitgevoer word.

Artikel 37

1. Die lede van die familie van 'n diplomatieke agent wat deel uitmaak van sy huishouding geniet, indien hulle nie burgers van die Ontvangerstaat is nie, die voorregte en immuniteite wat in Artikels 29 tot 36 gespesifiseer word.

2. Lede van die administratiewe en tegniese personeel van die missie, tesame met lede van hul families wat deel uitmaak van hulle onderskeie huishoudings, geniet, indien hulle nie burgers van of permanent woonagtig in die Ontvangerstaat is nie, die voorregte en immuniteite wat in Artikels 29 tot 35 gespesifiseer word, behalwe dat immuniteit teen die siviele en administratiewe jurisdiksie van die Ontvangerstaat wat in paragraaf 1 van Artikel 31 gespesifiseer word, nie uitgebrei word na handeling wat buite die loop van hulle pligte verrig word nie. Hulle geniet ook die voorregte gespesifiseer in Artikel 36, paragraaf 1, ten opsigte van artikels ingevoer ten tyde van eerste vestiging.

3. Lede van die dienspersoneel van die missie wat nie burgers van of permanent woonagtig in die Ontvangerstaat is nie geniet immuniteit ten opsigte van handeling wat in die loop van hul pligte verrig is, vrystelling van regte en belasting op die emolumente wat hulle as gevolg van hulle indiensneming ontvang en die vrystelling vervat in Artikel 33.

4. Private bediendes van lede van die missie word, indien hulle nie burgers van of permanent woonagtig in die Ontvangerstaat is nie, vrygestel van regte en belasting op hul emolumente wat hulle as gevolg van hul indiensneming ontvang. In ander opsigte mag hulle voorregte en immuniteite slegs in die mate waarin dit deur die Ontvangerstaat toegelaat word, geniet. Die Ontvangerstaat moet egter sy jurisdiksie oor daardie persone op so 'n wyse uitoefen dat daar nie oormatig met die uitvoering van die funksies van die missie ingemeng word nie.

Artikel 39

1. Elke persoon wat geregtig is op voorregte en immuniteite, geniet dit vanaf die oomblik wanneer hy die gebied van die Ontvangerstaat op weg om sy pos op te neem, binnekom of, indien reeds in sy gebied, vanaf die oomblik wanneer daar aan die Ministerie van Buitelandse Sake of die ander ministerie soos ooreengekom, kennis van sy aanstelling gegee word.

2. Wanneer die funksies van 'n persoon geregtig op voorregte en immuniteite tot 'n einde gekom het, eindig sodanige voorregte en immuniteite normaalweg op die oomblik wanneer hy die land verlaat, of by verstryking van 'n redelike tydperk waarbinne dit kan geskied, maar dit duur voort tot op daardie tydstip, selfs in geval van gewapende konflik. Die immuniteit bestaan egter voort met betrekking tot handeling wat deur sodanige persoon in die uitvoering van sy funksies as 'n lid van die missie verrig word.

3. In geval van die afsterwe van 'n lid van die missie, geniet die lede van sy familie steeds die voorregte en immuniteite waarop hulle geregtig is totdat 'n redelike tyd verloop het om die land te verlaat.

4. In die geval van die afsterwe van 'n lid van die missie wat nie 'n burger van of permanent woonagtig in die Ontvangerstaat is nie of van 'n lid van sy familie wat deel van sy huishouding uitmaak, laat die Ontvangerstaat toe dat die roerende eiendom van die oorledene onttrek word, uitgesonderd enige eiendom wat verkry is in die land waarvan die uitvoer ten tyde van sy dood verbode was. Boedel- of erfopvolgingsregte word nie op roerende eiendom wat in die Ontvangerstaat teenwoordig

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the receiving State was due solely to the presence there of the deceased as a member of the mission or as a member of the family of a member of the mission.

Article 40

1. If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport visa if such visa was necessary, while proceeding to take up or to return to his post, or when returning to his own country, the third State shall accord him inviolability and such other immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges or immunities who are accompanying the diplomatic agent, or travelling separately to join him or to return to their country.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the passage of members of the administrative and technical or service staff of a mission, and of members of their families, through their territories.

3. Third States shall accord to official correspondence and other official communications in transit, including messages in code or cipher, the same freedom and protection as is accorded by the receiving State. They shall accord to diplomatic couriers, who have been granted a passport visa if such visa was necessary, and diplomatic bags in transit the same inviolability and protection as the receiving State is bound to accord.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and diplomatic bags, whose presence in the territory of the third State is due to *force majeure*.

Article 41

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

2. All official business with the receiving State entrusted to the mission by the sending State shall be conducted with or through the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

3. The premises of the mission must not be used in any manner incompatible with the functions of the mission as laid down in the present Convention or by other rules of general international law or by any special agreements in force between the sending and the receiving State.

Schedule 2

PROVISIONS OF THE VIENNA CONVENTION ON CONSULAR RELATIONS, 1961, HAVING THE FORCE OF LAW IN THE REPUBLIC

Article 1

Definitions

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

- (a) "consular post" means any consulate-general, consulate, vice-consulate or consular agency;
- (b) "consular district" means the area assigned to a consular post for the exercise of consular functions;
- (c) "head of consular post" means the person charged with the duty of acting in that capacity;
- (d) "consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions;

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was slegs vanweë die teenwoordigheid van die oorledene as 'n lid van die missie of as 'n lid van die familie van 'n lid van die missie, gehef nie.

Artikel 40

1. Indien 'n diplomatieke agent deur die gebied reis of in die gebied is van 'n derde Staat, wat aan hom 'n paspoortvisum uitgereik het indien so 'n visum nodig was, terwyl hy op weg is om sy pos op te neem of om na sy pos terug te keer, of besig is om terug te keer na sy eie land, verleen die derde Staat aan hom onskendbaarheid en die ander immuniteite wat nodig mag wees om sy deurgang of terugkeer te verseker. Dieselfde geld in die geval van enige lede van die diplomatieke agent se familie wat voorregte en immuniteite geniet en hom vergesel, of wat afsonderlik reis om by hom aan te sluit of om na hul land terug te keer.

2. Onder omstandighede soortgelyk aan dié gespesifiseer in paragraaf 1 van hierdie Artikel, verhinder derde State nie die deurgang van lede van die administratiewe en tegniese of dienspersoneel van 'n missie, en van lede van hulle families, deur hulle gebiede nie.

3. Derde state moet aan amptelike korrespondensie en ander amptelike kommunikasies *in transit*, met inbegrip van boodskappe in kode of syferkode, dieselfde vryheid en beskerming as wat deur die Ontvangerstaat toegestaan word, toestaan. Hulle verleen aan diplomatieke koeriers, aan wie 'n paspoortvisum verleen is indien so 'n visum nodig was, en aan diplomatieke sakke *in transit* dieselfde onskendbaarheid en beskerming as wat die Ontvangerstaat verplig is om toe te staan.

4. Die verpligtinge van derde State kragtens paragrafe 1, 2 en 3 van hierdie Artikel is ook op die persone onderskeidelik genoem in daardie paragrafe, en op amptelike kommunikasies en diplomatieke sakke, waarvan die teenwoordigheid in die gebied van die derde Staat die gevolg van *force majeure* is, van toepassing.

Artikel 41

1. Sonder afbreuk aan hul voorregte en immuniteite is dit die plig van alle persone wat sodanige voorregte en immuniteite geniet om die wette en regulasies van die Ontvangerstaat te eerbiedig. Hulle staan ook onder 'n verpligting om nie met die interne aangeleenthede van daardie Staat in te meng nie.

2. Alle amptelike besigheid met die Ontvangerstaat deur die Senderstaat aan die missie toevertrou, word met of deur die Ministerie van Buitelandse Sake van die Ontvangerstaat of sodanige ander ministerie soos ooreengekom mag word, gevoer.

3. Die perseel van die missie word nie op enige wyse strydig met die funksies van die missie soos bepaal in hierdie Konvensie of deur enige ander reëls van algemene internasionale reg of deur enige spesiale ooreenkomste tussen die Sender- en die Ontvangerstaat van krag, gebruik nie.

Bylae 2

BEPALINGS VAN DIE WEENSE KONVENSIE OP KONSULÊRE BETREKKINGE, 1963, WAT REGSKRAG IN DIE REPUBLIEK HET

Artikel 1

Woordomskrywings

1. By die toepassing van hierdie Konvensie, dra die volgende uitdrukkings die betekenis wat hieronder daaraan geheg word:

- (a) "konsulêre pos" beteken enige konsulaat-generaal, konsulaat, vise-konsulaat of konsulêre agentskap;
- (b) "konsulêre distrik" beteken die gebied wat aan 'n konsulêre pos vir die uitvoering van konsulêre funksies toegewys is;
- (c) "hoof van konsulêre pos" beteken die persoon wat die plig opgelê is om in daardie hoedanigheid op te tree;
- (d) "konsulêre beampte" beteken enige persoon, met inbegrip van die hoof van 'n konsulêre pos, wat in daardie hoedanigheid met die uitoefening van konsulêre funksies toevertrou is;

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- (e) "consular employee" means any person employed in the administrative or technical service of a consular post;
- (f) "member of the service staff" means any person employed in the domestic service of a consular post;
- (g) "members of the consular post" means consular officers, consular employees and members of the service staff;
- (h) "members of the consular staff" means consular officers, other than the head of a consular post, consular employees and members of the service staff;
- (i) "member of the private staff" means a person who is employed exclusively in the private service of a member of the consular post;
- (j) "consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post;
- (k) "consular archives" includes all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indexes and any article of furniture intended for their protection or safekeeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers. The provisions of Chapter II of the present Convention apply to consular posts headed by career consular officers; the provisions of Chapter III govern consular posts headed by honorary consular officers.

CHAPTER I

CONSULAR RELATIONS IN GENERAL

Article 5

Consular functions

Consular functions consist in:

- (a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
- (b) furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention;
- (c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested;
- (d) issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State;
- (e) helping and assisting nationals, both individuals and bodies corporate, of the sending State;
- (f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State;
- (g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession *mortis causa* in the territory of the receiving State, in accordance with the laws and regulations of the receiving State;
- (h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons;

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- (e) "konsulêre werknemer" beteken enige persoon in die administratiewe of tegniese diens van die konsulêre pos;
 - (f) "lid van die dienspersoneel" beteken enige lid in die huishoudelike diens van 'n konsulêre pos;
 - (g) "lede van die konsulêre pos" beteken konsulêre beamptes, konsulêre werknemers en lede van die dienspersoneel;
 - (h) "lede van die konsulêre personeel" beteken konsulêre beamptes (uitgesonderd die hoof van 'n konsulêre pos) konsulêre werknemers en lede van die dienspersoneel;
 - (i) "lid van die private personeel" beteken 'n persoon wat uitsluitlik vir die private diens van 'n lid van die konsulêre pos in diens geneem is;
 - (j) "konsulêre perseel" beteken die geboue of dele van geboue en die grond bykomstig daarby, ongeag wie die eienaar daarvan is, wat uitsluitlik vir die doeleindes van die konsulêre pos gebruik word;
 - (k) "konsulêre argiewe" sluit in al die stukke, dokumente, korrespondensie, boeke, films, bande en registers van die konsulêre pos, tesame met die syferkodes en kodes, die kaartindekse en enige meublement wat bedoel is vir die beskerming of bewaring daarvan.
2. Daar bestaan twee kategorieë konsulêre beamptes, naamlik, beroeps- konsulêre beamptes en ere- konsulêre beamptes. Die bepalings van Hoofstuk II van hierdie Konvensie is van toepassing op konsulêre poste met beroeps- konsulêre beamptes aan die hoof; die bepalings van Hoofstuk III beheers konsulêre poste met ere- konsulêre beamptes aan die hoof.

HOOFSTUK I

KONSULÊRE BETREKKINGE IN DIE ALGEMEEN

Artikel 5

Konsulêre funksies

Konsulêre funksies bestaan uit:

- (a) beskerming in die Ontvangerstaat van die belange van die Senderstaat en van sy burgers, individue sowel as regspersone, binne die perke wat deur die internasionale reg toegelaat word;
- (b) bevordering van die ontwikkeling van handels-, ekonomiese, kulturele en wetenskaplike betrekkings tussen die Senderstaat en die Ontvangerstaat en bevordering andersins van vriendskaplike betrekkings tussen hulle ooreenkomstig die bepalings van hierdie Konvensie;
- (c) vasstelling op alle regmatige wyses van die omstandighede en ontwikkelings in die handels-, ekonomiese, kulturele en wetenskaplike sfeer van die Ontvangerstaat, verslaggewing daaroor aan die Regering van die Senderstaat en verskaffing van inligting aan belangstellende persone;
- (d) uitreiking van paspoorte en reisdokumente aan burgers van die Senderstaat, en visums of toepaslike dokumente aan persone wat verlang om na die Senderstaat te reis;
- (e) hulp- en bystandverlening aan burgers, individue sowel as regspersone, van die Senderstaat;
- (f) optrede as notaris en siviele registrateur en in hoedanighede van soortgelyke aard, en verrigting van sekere funksies van 'n administratiewe aard, mits daar niks teenstrydigs daarmee in die wette en regulasies van die Ontvangerstaat is nie;
- (g) beveiliging van die belange van burgers, individue sowel as regspersone, van die Senderstaat in gevalle van erfopvolging *mortis causa* in die gebied van die Ontvangerstaat, ooreenkomstig die wette en regulasies van die Ontvangerstaat;
- (h) beveiliging, binne die perke bepaal deur die wette en regulasies van die Ontvangerstaat, van die belange van minderjariges en ander persone wat nie ten volle handelingsbevoeg is nie en wat burgers van die Senderstaat is, in die besonder waar enige voogdyskap of trusteeskap ten aansien van sulke persone vereis word;

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- (i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests;
- (j) transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State;
- (k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews;
- (l) extending assistance to vessels and aircraft mentioned in sub-paragraph (k) of this Article, and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the laws and regulations of the sending State;
- (m) performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

Article 17

Performance of diplomatic acts by consular officers

1. In a State where the sending State has no diplomatic mission and is not represented by a diplomatic mission of a third State, a consular officer may, with the consent of the receiving State, and without affecting his consular status, be authorized to perform diplomatic acts. The performance of such acts by a consular officer shall not confer upon him any right to claim diplomatic privileges and immunities.

2. A consular officer may, after notification addressed to the receiving State, act as representative of the sending State to any inter-governmental organization. When so acting, he shall be entitled to enjoy any privileges and immunities accorded to such a representative by customary international law or by international agreements; however, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

CHAPTER II

FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CONSULAR POSTS, CAREER
CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

SECTION I

FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO A CONSULAR POST

Article 31

Inviolability of the consular premises

1. Consular premises shall be inviolable to the extent provided in this Article.
2. The authorities of the receiving State shall not enter that part of the consular

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- (i) onderworpe aan die praktyke en prosedures wat in die Ontvangerstaat geld, verteenwoordiging van of die reël van geskikte verteenwoordiging vir burgers van die Senderstaat voor tribunale en ander owerhede van die Ontvangerstaat, met die doel om, ooreenkomstig die wette en regulasies van die Ontvangerstaat, voorlopige maatreëls vir die behoud van die regte en belange van hierdie burgers te verkry, waar, as gevolg van afwesigheid of enige ander rede, sodanige burgers nie in staat is om op die gepaste tyd die verdediging van hulle regte en belange te onderneem nie;
- (j) oorsending van judisiële en nie-judisiële dokumente of uitvoering van briewe rogatoor of kommissies om getuienis vir howe van die Senderstaat af te neem ooreenkomstig internasionale ooreenkomste van krag of, in die afwesigheid van sodanige internasionale ooreenkomste, op enige ander wyse versoenbaar met die wette en regulasies van die Ontvangerstaat;
- (k) uitoefening van regte van toesig en inspeksie waarvoor voorsiening gemaak word in die wette en regulasies van die Senderstaat ten opsigte van vaartuie wat die nasionaliteit van die Senderstaat het, en van vliegtuie wat in daardie Staat geregistreer is, en ten opsigte van hul bemannings;
- (l) verlening van bystand aan vaartuie en vliegtuie genoem in subparagraaf (k) van hierdie Artikel, en aan hulle bemannings, neem van verklarings aangaande die vaart van 'n vaartuig, ondersoek en stempel van die skeepsdokumente, en, sonder afbreuk aan die magte van die owerhede van die Ontvangerstaat, hou van ondersoeke na enige voorvalle wat tydens die vaart plaasgevind het, en beslegting van geskille van enige aard tussen die skeepskaptein, die offisiere en die seemanne in soverre dit gemagtig mag word deur die wette en regulasies van die Senderstaat;
- (m) verrigting van enige ander funksies wat deur die Senderstaat aan die konsulêre pos toevertrou is en wat nie deur die wette en regulasies van die Ontvangerstaat verbied word nie of waarteen daar geen beswaar deur die Ontvangerstaat aangeteken word nie of waarna in die internasionale ooreenkomste wat tussen die Senderstaat en die Ontvangerstaat van krag is, verwys word.

Artikel 17

Verrigting van diplomatieke handelinge deur konsulêre beamptes

1. In 'n Staat waar die Senderstaat geen diplomatieke missie het nie en nie deur 'n diplomatieke missie van 'n derde Staat verteenwoordig word nie, mag 'n konsulêre beampte, met die toestemming van die Ontvangerstaat, en sonder dat sy konsulêre status geraak word, gemagtig word om diplomatieke handelinge te verrig. Die verrigting van sodanige handelinge deur 'n konsulêre beampte verleen nie aan hom enige reg om diplomatieke voorregte en immuniteite te eis nie.

2. 'n Konsulêre beampte mag, nadat kennis aan die Ontvangerstaat gegee is, as verteenwoordiger van die Senderstaat by enige tussenregeringsorganisasie optree. Wanneer hy so optree, is hy geregtig om enige voorregte en immuniteite wat aan so 'n verteenwoordiger deur internasionale gewoontereg of deur internasionale ooreenkomste verleen word, te geniet; maar ten opsigte van die verrigting van enige konsulêre funksies deur hom, is hy nie geregtig op enige immuniteit teen jurisdiksie wat groter is as dié waarop 'n konsulêre beampte kragtens hierdie Konvensie geregtig is nie.

HOOFSTUK II

FASILITEITE, VOORREGTE EN IMMUNITEITE MET BETREKKING TOT KONSULÊRE POSTE, BEROEPS- KONSULÊRE BEAMPTES EN ANDER LEDE VAN 'N KONSULÊRE POS

AFDELING I

FASILITEITE, VOORREGTE EN IMMUNITEITE MET BETREKKING TOT 'N KONSULÊRE POS

Artikel 31

Onskendbaarheid van konsulêre persele

1. Konsulêre persele is onskendbaar in die mate waarvoor in hierdie Artikel voorsiening gemaak word.

2. Die owerhede van die Ontvangerstaat mag nie daardie gedeelte van die

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premises which is used exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action.

.....

4. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for purposes of national defence or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending State.

Article 32

Exemption from taxation of consular premises

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

Article 33

Inviolability of the consular archives and documents

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

Article 35

Freedom of communication

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.

3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4 of this Article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.

4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. Except with the consent of the receiving State he shall be neither a national of the receiving State,

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konsulêre perseel wat uitsluitlik vir die doeleindes van die werk van die konsulêrepos gebruik word, behalwe met die toestemming van die hoof van die konsulêre pos of van sy benoemde of van die hoof van die diplomatieke missie van die Senderstaat, binnegaan nie. Die toestemming van die hoof van die konsulêre pos mag egter in geval van brand of enige ander ramp wat onmiddellike beskermende optrede vereis, veronderstel word.

4. Die konsulêre persele, hul meublement, die eiendom van die konsulêre pos en sy vervoermiddels is immuun teen enige vorm van opeising vir die doeleindes van nasionale verdediging of openbare gebruik. Indien onteiening vir sodanige doeleindes nodig is, moet alle moontlike stappe gedoen word om belemmering van die verrigting van konsulêre funksies te verhoed, en word spoedige, voldoende en effektiewe vergoeding aan die Senderstaat betaal.

Artikel 32

Vrystelling van konsulêre persele van belasting

1. Konsulêre persele en die residensie van die beroepshoof van die konsulêre pos waarvan die Senderstaat of iemand wat optree ten behoeve van hom die eienaar of huurder is, is vrygestel van alle nasionale, streeks- of munisipale regte en belastinge hoegenaamd, uitgesonderd dié wat betaling vir spesifieke dienste gelewer, verteenwoordig.

2. Die vrystelling van belasting bedoel in paragraaf 1 van hierdie Artikel, is nie op sodanige regte en belastinge van toepassing nie as dit, ooreenkomstig die reg van die Ontvangerstaat, betaalbaar is deur die persoon wat gekontrakteer het met die Senderstaat of met die persoon wat ten behoeve van hom handel het.

Artikel 33

Onskendbaarheid van die konsulêre argiewe en dokumente

Die konsulêre argiewe en dokumente is te alle tye en waar dit ook al mag wees, onskendbaar.

Artikel 35

Vryheid van kommunikasie

1. Die Ontvangerstaat moet vryheid van kommunikasie deur die konsulêre pos vir alle amptelike doeleindes veroorloof en beskerm. By kommunikasie met die Regering, die diplomatieke missies en ander konsulêre poste, waar ook al geleë, van die Senderstaat, mag die konsulêre pos alle geskikte middele, met inbegrip van diplomatieke of konsulêre koeriers, diplomatieke of konsulêre sakke en boodskappe in kode of syferkode, gebruik. Die konsulêre pos mag egter 'n draadlose sender alleen met toestemming van die Ontvangerstaat installeer en gebruik.

2. Die amptelike korrespondensie van die konsulêre pos is onskendbaar. Amptelike korrespondensie beteken alle korrespondensie in verband met die konsulêre pos en sy funksies.

3. Die konsulêre sak word nóg oopgemaak nóg teruggehou. Nogtans, indien die bevoegde owerhede van die Ontvangerstaat ernstige rede het om te glo dat die sak enigiets anders as die korrespondensie, dokumente of artikels waarna in paragraaf 4 van hierdie Artikel verwys word, bevat, mag hulle versoek dat die sak deur 'n gemagtigde verteenwoordiger van die Senderstaat in hulle teenwoordigheid oopgemaak word. Indien hierdie versoek deur die owerhede van die Senderstaat geweier word, word die sak na sy plek van oorsprong teruggestuur.

4. Die houe wat die konsulêre sak uitmaak, moet sigbare merke van hul aard aan die buitekant daarvan vertoon en mag slegs amptelike korrespondensie en dokumente of artikels uitsluitlik bedoel vir amptelike gebruik, bevat.

5. Die konsulêre koerier moet voorsien word van 'n amptelike dokument wat sy status en die aantal houe wat die konsulêre sak uitmaak, aandui. Behalwe met die toestemming van die Ontvangerstaat mag hy nie 'n burger van die Ontvangerstaat

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nor, unless he is a national of the sending State, a permanent resident of the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State, its diplomatic missions and its consular posts may designate consular couriers *ad hoc*. In such cases the provisions of paragraph 5 of this Article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

Article 39

Consular fees and charges

1. The consular post may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.

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

SECTION II

FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CAREER CONSULAR OFFICERS
AND OTHER MEMBERS OF A CONSULAR POST

Article 41

Personal inviolability of consular officers

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.

2. Except in the case specified in paragraph 1 of this Article, consular officers shall not be committed to prison or liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.

Article 43

Immunity from jurisdiction

1. Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.

2. The provisions of paragraph 1 of this Article shall not, however, apply in respect of a civil action either:

- (a) arising out of a contract concluded by a consular officer or a consular employee in which he did not contract expressly or impliedly as an agent of the sending State; or
- (b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

Article 44

Liability to give evidence

1. Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member

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of, behalwe as hy 'n burger van die Senderstaat is, 'n permanente inwoner van die Ontvangerstaat wees nie. By die uitvoering van sy funksies moet hy deur die Ontvangerstaat beskerm word. Hy geniet persoonlike onskendbaarheid en is nie onderhewig aan enige vorm van arres of aanhouding nie.

6. Die Senderstaat, sy diplomatieke missies en sy konsulêre poste mag konsulêre koeriers *ad hoc* benoem. In sodanige gevalle is die bepalings van paragraaf 5 van hierdie Artikel ook van toepassing behalwe dat die immuniteite waarna daarin verwys word, ophou om van toepassing te wees wanneer sodanige koerier die konsulêre sak onder sy sorg aan die geadresseerde gelewer het.

7. 'n Konsulêre sak mag toevertrou word aan die kaptein van 'n skip of van 'n handelsvliegtuig wat geskeduleer is om by 'n gemagtigde poort van binnekoms te land. Hy moet voorsien word van 'n amptelike dokument wat die aantal houters wat die sak uitmaak, aandui, maar hy word nie geag 'n konsulêre koerier te wees nie. Die konsulêre pos mag, by reëling met die betrokke plaaslike owerhede, een van sy lede stuur om direk en vryelik besit van die konsulêre sak by die kaptein van die skip of van die vliegtuig te neem.

Artikel 39

Konsulêre gelde en vorderings

1. Die konsulêre pos mag in die gebied van die Ontvangerstaat die gelde en vorderings vir konsulêre handelinge hef waarvoor voorsiening gemaak word deur die wette en regulasies van die Senderstaat.

2. Die bedrae wat ingesamel word as die gelde en vorderings waarna in paragraaf 1 van hierdie Artikel verwys word, en die kwitansies vir sodanige gelde en vorderings, is van alle regte en belastingen in die Ontvangerstaat vrygestel.

AFDELING II

FASILITEITE, VORREGTE EN IMMUNITEITE MET BETREKKING TOT BEROEPS- KONSULÊRE BEAMPTES EN ANDER LEDE VAN 'N KONSULÊRE POS

Artikel 41

Persoonlike onskendbaarheid van konsulêre beamptes

1. Konsulêre beamptes is nie aan arres of aanhouding in afwagting van 'n verhoor onderhewig nie, behalwe in die geval van 'n ernstige misdryf en uit hoofde van 'n beslissing deur 'n bevoegde judisiële owerheid.

2. Behalwe in die geval gespesifiseer in paragraaf 1 van hierdie Artikel, word konsulêre beamptes nie gevange gesit of onderhewig gestel aan enige vorm van beperking op hul persoonlike vryheid nie behalwe by die tenuitvoerlegging van 'n judisiële besluit met finale gevolg.

Artikel 43

Immunitet teen jurisdiksie

1. Konsulêre beamptes en konsulêre werknemers is nie onderworpe aan die jurisdiksie van die judisiële of administratiewe owerhede van die Ontvangerstaat ten opsigte van handelinge verrig in die uitvoering van konsulêre funksies nie.

2. Die bepalings van paragraaf 1 van hierdie Artikel is egter nie van toepassing nie met betrekking tot 'n siviele aksie—

- (a) wat voortspruit uit 'n kontrak wat deur 'n konsulêre beampte of 'n konsulêre werknemer gesluit is en waarin hy nie uitdruklik of stilswyend as agent van die Senderstaat gekontrakteer het nie; of
- (b) deur 'n derde party vir skade wat voortspruit uit 'n ongeluk in die Ontvangerstaat wat veroorsaak is deur 'n voertuig, vaartuig of vliegtuig.

Artikel 44

Getuiepligtheid

1. Lede van 'n konsulêre pos mag opgeroep word om as getuies in die loop van judisiële of administratiewe verrigtinge aanwesig te wees. 'n Konsulêre werknemer

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of the service staff shall not, except in the cases mentioned in paragraph 3 of this Article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him.

2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible, take such evidence at his residence or at the consular post or accept a statement from him in writing.

3. Members of a consular post are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence and documents relating thereto. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

Article 45

Waiver of privileges and immunities

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in Articles 41, 43 and 44.

2. The waiver shall in all cases be express, except as provided in paragraph 3 of this Article, and shall be communicated to the receiving State in writing.

3. The initiation of proceedings by a consular officer or a consular employee in a matter where he might enjoy immunity from jurisdiction under Article 43 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

Article 48

Social security exemption

1. Subject to the provisions of paragraph 3 of this Article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall apply also to members of the private staff who are in the sole employ of members of the consular post, on condition:

- (a) that they are not nationals of or permanently resident in the receiving State; and
- (b) that they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

Article 49

Exemption from taxation

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

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of 'n lid van die dienspersoneel mag, behalwe in die gevalle genoem in paragraaf 3 van hierdie Artikel, nie weier om getuienis af te lê nie. Indien 'n konsulêre beampte sou weier om dit te doen, mag geen dwingende maatreël of straf op hom toegepas word nie.

2. Die owerheid wat die getuienis van 'n konsulêre beampte vereis, moet inmenging met die uitvoering van sy funksies vermy. Hy mag, wanneer moontlik, sodanige getuienis by sy woning of by die konsulêre pos afneem of 'n skriftelike verklaring van hom aanvaar.

3. Lede van 'n konsulêre pos staan onder geen verpligting om getuienis betreffende sake wat verband hou met die uitoefening van hulle funksies te lewer of om amptelike korrespondensie en dokumente wat betrekking daarop het, voor te lê nie. Hulle is ook geregtig om te weier om as deskundige getuies getuienis met betrekking tot die reg van die Senderstaat te lewer.

Artikel 45

Afstanddoening van voorregte en immuniteite

1. Die Senderstaat mag, met betrekking tot 'n lid van die konsulêre pos, van enige van die voorregte en immuniteite waarvoor in Artikels 41, 43 en 44 voorsiening gemaak word, afstand doen.

2. Die afstanddoening moet in alle gevalle uitdruklik wees, behalwe soos bepaal in paragraaf 3 van hierdie Artikel, en moet skriftelik aan die Ontvangerstaat oorgedra word.

3. Die instel van verrigtinge deur 'n konsulêre beampte of 'n konsulêre werknemer in 'n saak waar hy immuniteit teen jurisdiksie kragtens Artikel 43 mag geniet, verhinder hom om immuniteit teen jurisdiksie aan te voer ten opsigte van enige teeneis wat direk verband hou met die hoofeis.

4. Die afstanddoening van immuniteit teen jurisdiksie vir die doeleindes van siviele of administratiewe verrigtinge word nie geag afstanddoening van immuniteit teen die maatreëls van tenuitvoerlegging as gevolg van 'n judisiële beslissing te impliseer nie; ten opsigte van sodanige maatreëls is 'n afsonderlike afstanddoening nodig.

Artikel 48

Vrystelling betreffende sosiale sekuriteit

1. Behoudens die bepalinge van paragraaf 3 van hierdie Artikel, is lede van die konsulêre pos met betrekking tot dienste deur hulle aan die Senderstaat gelewer, en lede van hulle families wat deel uitmaak van hulle huishoudings, vrygestel van bepalinge betreffende sosiale sekuriteit wat in die Ontvangerstaat van toepassing mag wees.

2. Die vrystelling waarvoor in paragraaf 1 van hierdie Artikel voorsiening gemaak word, is ook op lede van die private personeel wat in die uitsluitlike diens van lede van die konsulêre pos staan, van toepassing, op voorwaarde:

(a) dat hulle nie burgers van of permanent woonagtig in die Ontvangerstaat is nie; en

(b) dat hulle deur die bepalinge betreffende sosiale sekuriteit wat in die Senderstaat of 'n derde Staat van toepassing is, gedek word.

3. Lede van die konsulêre pos wat persone in diens het ten opsigte van wie die vrystelling waarvoor voorsiening gemaak word in paragraaf 2 van hierdie Artikel nie van toepassing is nie, moet die verpligtinge wat die bepalinge betreffende sosiale sekuriteit van die Ontvangerstaat werkgewers oplê, nakom.

4. Die vrystelling waarvoor voorsiening gemaak word in paragrawe 1 en 2 van hierdie Artikel verhinder nie vrywillige deelname aan die sosiale sekuriteit-stelsel van die Ontvangerstaat nie, mits sodanige deelname deur daardie Staat toegelaat word.

Artikel 49

Vrystelling van belasting

1. Konsulêre beamptes en konsulêre werknemers en lede van hulle families wat deel vorm van hulle huishouding is vrygestel van alle persoonlike of saaklike, nasionale, streeks- of munisipale regte en belastinge, uitgesonderd:

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- (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;
- (b) dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of Article 32;
- (c) estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject to the provisions of paragraph (b) of Article 51;
- (d) dues and taxes on private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of Article 32.

2. Members of the service staff shall be exempt from dues and taxes on the wages which they receive for their services.

Article 50

Exemption from customs duties and inspection

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

- (a) articles for the official use of the consular post;
- (b) articles for the personal use of a consular officer or members of his family forming part of his household, including articles intended for his establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.

2. Consular employees shall enjoy the privileges and exemptions specified in paragraph 1 of this Article in respect of articles imported at the time of first installation.

3. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in sub-paragraph (b) of paragraph 1 of this Article, or articles the import or export of which is prohibited by the laws and regulations of the receiving State or which are subject to its quarantine laws and regulations. Such inspection shall be carried out in the presence of the consular officer or member of his family concerned.

Article 51

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

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

- (a) shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the receiving State the export of which was prohibited at the time of his death;
- (b) shall not levy national, regional or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

Article 52

Exemption from personal services and contributions

The receiving State shall exempt members of the consular post and members of their families forming part of their households from all personal services, from all

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- (a) indirekte belasting van 'n soort wat normaalweg ingesluit is in die prys van goedere of dienste;
 - (b) regte of belastinge op private onroerende eiendom wat in die gebied van die Ontvangerstaat geleë is, onderworpe aan die bepalings van Artikel 32;
 - (c) boedel- of erfopvolgingsregte, en regte op oordragte, wat deur die Ontvangerstaat gehef word, behoudens die bepalings van paragraaf (b) van Artikel 51;
 - (d) regte en belastinge op private inkomste, met inbegrip van kapitale winste, wat sy oorsprong in die Ontvangerstaat het en kapitale belastinge met betrekking tot beleggings wat in handels- of finansiële ondernemings in die Ontvangerstaat gedoen is;
 - (e) gelde gehef vir spesiale dienste gelewer;
 - (f) registrasie-, hof- of rekordgelde, verbandregte en seëlregte, behoudens die bepalings van Artikel 32.
2. Lede van die dienspersoneel is van regte en belastinge op lone wat hulle vir hul dienste ontvang, vrygestel.

Artikel 50

Vrystelling van doeaneregte en inspeksie

1. Die Ontvangerstaat moet, ooreenkomstig wette en regulasies wat hy mag aanneem, binnekoms toelaat van, en vrystelling verleen van alle doeaneregte, -belastinge en aanverwante gelde uitgesonderd gelde vir bergings-, vervoer- en soortgelyke dienste, op:

- (a) artikels vir die amptelike gebruik van die konsulêre pos;
- (b) artikels vir die persoonlike gebruik van 'n konsulêre beampte of lede van sy familie wat deel vorm van sy huishouding, met inbegrip van artikels bedoel vir sy vestiging. Die artikels wat vir verbruik bedoel is, oorskry nie die hoeveelhede wat nodig is vir direkte gebruik deur die betrokke persone nie.

2. Konsulêre werknemers geniet die voorregte en vrystellings gespesifiseer in paragraaf 1 van hierdie Artikel ten opsigte van artikels wat ingevoer word ten tyde van eerste vestiging.

3. Persoonlike bagasie wat konsulêre beamptes en lede van hul families wat deel vorm van hul huishoudings vergesel, is vrygestel van inspeksie. Dit mag slegs geïnspekteer word as daar ernstige rede is om te glo dat dit ander artikels bevat as dié waarna in subparagraaf (b) van paragraaf 1 van hierdie Artikel verwys word, of artikels waarvan die invoer en uitvoer deur die wette en regulasies van die Ontvangerstaat verbied word of wat onderworpe is aan sy kwarantynwette en -regulasies. Sodanige inspeksie word in die teenwoordigheid van die betrokke konsulêre beampte of lid van sy familie uitgevoer.

Artikel 51

Boedel van 'n lid van die konsulêre pos of van 'n lid van sy familie

In die geval van die afsterwe van 'n lid van die konsulêre pos of van 'n lid van sy familie wat deel van sy huishouding vorm, moet die Ontvangerstaat—

- (a) die uitvoer van die roerende eiendom van die oorledene toelaat, uitgesonderd enige sodanige eiendom wat in die Ontvangerstaat verkry is waarvan die uitvoer verbode was op die oomblik van sy dood;
- (b) geen nasionale, streeks- of munisipale boedel- of erfopvolgingsregte, en regte op oordragte, hef op roerende eiendom wat in die Ontvangerstaat teenwoordig was slegs vanweë die teenwoordigheid in daardie Staat van die oorledene as lid van die konsulêre pos of as lid van die familie van 'n lid van die konsulêre pos nie.

Artikel 52

Vrystelling van persoonlike dienste en kontribusies

Die Ontvangerstaat stel lede van die konsulêre pos en lede van hul families wat deel vorm van hul huishoudings vry van alle persoonlike dienste, van alle openbare

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public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 53

Beginning and end of consular privileges and immunities

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

2. Members of the family of a member of the consular post forming part of his household and members of his private staff shall receive the privileges and immunities provided in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this Article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.

3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of a member of his family forming part of his household or a member of his private staff shall normally cease at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time, even in the case of armed conflict. In the case of the persons referred to in paragraph 2 of this Article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a consular officer or a consular employee in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consular post, the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner.

Article 54

Obligations of third States

1. If a consular officer passes through or is in the territory of a third State, which has granted him a visa if a visa was necessary, while proceeding to take up or return to his post or when returning to the sending State, the third State shall accord to him all immunities provided for by the other Articles of the present Convention as may be required to ensure his transit or return. The same shall apply in the case of any member of his family forming part of his household enjoying such privileges and immunities who are accompanying the consular officer or travelling separately to join him or to return to the sending State.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the transit through their territory of other members of the consular post or of members of their families forming part of their households.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under the present Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under the present Convention.

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dienste van enige aard hoegenaamd, en van militêre verpligtinge soos dié wat verband hou met rekwisisie, militêre kontribusies en inkwartiering.

Artikel 53

Aanvang en beëindiging van konsulêre voorregte en immuniteite

1. Elke lid van die konsulêre pos geniet die voorregte en immuniteite waarvoor in hierdie Konvensie voorsiening gemaak word, vanaf die oomblik wanneer hy die gebied van die Ontvangerstaat op weg om sy pos op te neem, binnekom of, as hy reeds in die gebied is, vanaf die oomblik wanneer hy sy pligte in die konsulêre pos opneem.

2. Lede van die familie van 'n lid van die konsulêre pos wat deel vorm van sy huishouding en lede van sy private personeel ontvang die voorregte en immuniteite waarvoor in hierdie Konvensie voorsiening gemaak word, vanaf die datum waarop hy die voorregte en immuniteite ooreenkomstig paragraaf 1 van hierdie Artikel geniet of vanaf die datum van hulle binnekoms in die gebied van die Ontvangerstaat of vanaf die datum waarop hulle 'n lid van sodanige familie of private personeel word, welke datum ook al die laatste is.

3. Wanneer die funksies van 'n lid van die konsulêre pos tot 'n einde gekom het, eindig sy voorregte en immuniteite en dié van 'n lid van sy familie wat deel van sy huishouding vorm of 'n lid van sy private personeel normaalweg op die oomblik wanneer die betrokke persoon die Ontvangerstaat verlaat of by verstryking van 'n redelike tydperk waarbinne dit kan geskied, watter tydstop ook al die vroegste voorval, maar dit duur voort tot op daardie tydstop, selfs in geval van gewapende konflik. In die geval van die persone na wie in paragraaf 2 van hierdie Artikel verwys word, verstryk hulle voorregte en immuniteite wanneer hulle ophou om aan die huishouding te behoort of in die diens te wees van 'n lid van die konsulêre pos, met dien verstande egter dat as sodanige persone beoog om die Ontvangerstaat binne 'n redelike tyd daarna te verlaat, hulle voorregte en immuniteite voortduur tot die tydstop van hul vertrek.

4. Met betrekking tot handelinge uitgevoer deur 'n konsulêre beampte of 'n konsulêre werknemer in die uitvoering van sy funksies, duur immuniteit teen jurisdiksie egter sonder tydsbeperking voort.

5. In die geval van die afsterwe van 'n lid van die konsulêre pos, geniet die lede van sy familie wat deel vorm van sy huishouding, die voorregte en immuniteite waarop hulle geregtig is totdat hulle die Ontvangerstaat verlaat of totdat 'n redelike tyd verloop het om dit te kan doen, watter ook al die vroegste voorval.

Artikel 54

Verpligtinge van derde State

1. Indien 'n konsulêre beampte deur die gebied reis of in die gebied is van 'n derde Staat, wat aan hom 'n visum uitgereik het indien 'n visum noodsaaklik was, terwyl hy op weg is om sy pos op te neem of om na sy pos terug te keer of wanneer hy terugkeer na die Senderstaat, verleen die derde Staat aan hom alle immuniteite waarvoor in die ander Artikels van hierdie Konvensie voorsiening gemaak word, wat nodig mag wees om sy deurgang of sy terugkeer te verseker. Dieselfde geld in die geval van enige lid van sy familie wat deel van sy huishouding vorm wat sodanige voorregte en immuniteite geniet en wat die konsulêre beampte vergesel of wat afsonderlik reis om by hom aan te sluit of om na die Senderstaat terug te keer.

2. Onder omstandighede soortgelyk aan dié wat in paragraaf 1 van hierdie Artikel gespesifiseer word, verhinder derde State nie die deurgang deur hul gebied van ander lede van die konsulêre pos of van lede van hulle families wat deel van hulle huishoudings vorm nie.

3. Derde state verleen aan amptelike korrespondensie en aan ander amptelike kommunikasies *in transitu*, met inbegrip van boodskappe in kode of syferkode, dieselfde vryheid en beskerming as wat die Ontvangerstaat gebonde is om kragtens hierdie Konvensie te verleen. Hulle verleen aan konsulêre koeriers aan wie 'n visum verleen is, indien 'n visum noodsaaklik was, en aan konsulêre sakke *in transitu*, dieselfde onskendbaarheid en beskerming as wat die Ontvangerstaat gebonde is om kragtens hierdie Konvensie te verleen.

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4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons, mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to *force majeure*.

Article 55

Respect for the laws and regulations of the receiving State

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

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

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

Article 56

Insurance against third party risks

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

Article 57

Special provisions concerning private gainful occupation

1. Career consular officers shall not carry on for personal profit any profession or commercial activity in the receiving State.

2. Privileges and immunities provided in this Chapter shall not be accorded:

- (a) to consular employees or to members of the service staff who carry on any private gainful occupation in the receiving State;
- (b) to members of the family of a person referred to in sub-paragraph (a) of this paragraph or to members of his private staff;
- (c) to members of the family of a member of a consular post who themselves carry on any private gainful occupation in the receiving State.

CHAPTER III

REGIME RELATING TO HONORARY CONSULAR OFFICERS AND CONSULAR POSTS HEADED BY SUCH OFFICERS

Article 58

General provisions relating to facilities, privileges and immunities

1. Articles . . . 35, . . . and 39, paragraph 3 of Article 54 and paragraphs 2 and 3 of Article 55 shall apply to consular posts headed by an honorary consular officer. In addition, the facilities, privileges and immunities of such consular posts shall be governed by Articles . . . 60, 61 and 62.

2. Articles . . . 43, paragraph 3 of Article 44, Articles 45 and 53 and paragraph 1 of Article 55 shall apply to honorary consular officers. In addition, the facilities, privileges and immunities of such consular officers shall be governed by Articles . . . 66 and 67.

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4. Die verpligtinge van derde State kragtens paragrawe 1, 2 en 3 van hierdie Artikel is ook op die persone onderskeidelik in daardie paragrawe genoem, en op amptelike kommunikasies en konsulêre sakke, van wie of waarvan die teenwoordigheid in die gebied van derde State die gevolg is van *force majeure*, van toepassing.

Artikel 55

Eerbied vir die wette en regulasies van die Ontvangerstaat

1. Sonder afbreuk aan hul voorregte en immuniteite, is dit die plig van alle persone wat sodanige voorregte en immuniteite geniet om die wette en regulasies van die Ontvangerstaat te eerbiedig. Hulle staan ook onder 'n verpligting om hulle nie met die interne aangeleenthede van daardie Staat in te meng nie.

2. Die konsulêre perseel word nie op enige wyse wat onversoenbaar is met die uitoefening van konsulêre funksies gebruik nie.

3. Die bepalings van paragraaf 2 van hierdie Artikel sluit nie die moontlikheid uit dat kantore van ander instellings of agentskappe ingeruim mag word in 'n deel van die gebou waarin die konsulêre perseel geleë is nie, mits die persele wat aan hulle toegeken word afsonderlik is van dié wat deur die konsulêre pos gebruik word. In daardie geval word die genoemde kantore by die toepassing van hierdie Konvensie nie geag deel van die konsulêre perseel te wees nie.

Artikel 56

Versekering teen derdeparty-risiko's

Lede van die konsulêre pos moet aan enige vereiste voldoen wat deur die wette en regulasies van die Ontvangerstaat ten opsigte van versekering teen derdeparty-risiko's wat voortspruit uit die gebruik van enige voertuig, vaartuig of vliegtuig, opgelê word.

Artikel 57

Spesiale bepalings betreffende private winsgewende besigheid

1. Beroeps- konsulêre beamptes bedryf nie vir persoonlike wins enige professie of handelsaktiwiteit in die Ontvangerstaat nie.

2. Voorregte en immuniteite waarvoor in hierdie Hoofstuk voorsiening gemaak word, word nie toegeken nie:

- (a) aan konsulêre werknemers of aan lede van die dienspersoneel wat enige private winsgewende beroep in die Ontvangerstaat bedryf;
- (b) aan lede van die familie van 'n persoon na wie in subparagraaf (a) van hierdie paragraaf verwys word of aan lede van sy private personeel;
- (c) aan lede van die familie van 'n lid van 'n konsulêre pos wat self enige private winsgewende beroep in die Ontvangerstaat bedryf.

HOOFSTUK III

REËLING MET BETREKKING TOT ERE- KONSULÊRE BEAMPTES EN KONSULÊRE POSTE WAT ONDER DIE HOOF STAAN VAN SODANIGE BEAMPTES

Artikel 58

Algemene bepalings met betrekking tot fasiliteite, voorregte en immuniteite

1. Artikels . . . 35, . . . en 39, paragraaf 3 van Artikel 54 en paragrawe 2 en 3 van Artikel 55 is op konsulêre poste wat onder die hoof staan van 'n ere- konsulêre beampte van toepassing. Daarbenewens word die fasiliteite, voorregte en immuniteite van sodanige konsulêre poste deur Artikels . . . 60, 61 en 62 beheers.

2. Artikels . . . 43, paragraaf 3 van Artikel 44, Artikels 45 en 53 en paragraaf 1 van Artikel 55 is op ere- konsulêre beamptes van toepassing. Daarbenewens word die fasiliteite, voorregte en immuniteite van sodanige konsulêre beamptes deur Artikels . . . 66 en 67 beheers.

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3. Privileges and immunities provided in the present Convention shall not be accorded to members of the family of an honorary consular officer or of a consular employee employed at a consular post headed by an honorary consular officer.

Article 60

Exemption from taxation of consular premises

1. Consular premises of a consular post headed by an honorary consular officer of which the sending State is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State.

Article 61

Inviolability of consular archives and documents

The consular archives and documents of a consular post headed by an honorary consular officer shall be inviolable at all times and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him, and from the materials, books or documents relating to their profession or trade.

Article 62

Exemption from customs duties

The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of, and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services on the following articles, provided that they are for the official use of a consular post headed by an honorary consular officer: coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post.

Article 66

Exemption from taxation

An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments which he receives from the sending State in respect of the exercise of consular functions.

Article 67

Exemption from personal services and contributions

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

CHAPTER IV

GENERAL PROVISIONS

Article 70

Exercise of consular functions by diplomatic missions

1. The provisions of the present Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission.

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3. Voorregte en immuniteite waarvoor in hierdie Konvensie voorsiening gemaak word, word nie aan lede van die familie van 'n ere- konsulêre beampte of van 'n konsulêre werknemer wat in diens is by 'n konsulêre pos wat onder die hoof staan van 'n ere- konsulêre beampte, verleen nie.

Artikel 60

Vrystelling van belasting van konsulêre persele

1. Konsulêre persele van 'n konsulêre pos wat onder die hoof staan van 'n ere- konsulêre beampte en waarvan die Senderstaat die eienaar of huurder is, is vrygestel van alle nasionale, streeks- of munisipale regte en belastinge hoegenaamd, uitgesonderd dié wat betaling vir spesifieke dienste gelever, verteenwoordig.

2. Die vrystelling van belasting waarna in paragraaf 1 van hierdie Artikel verwys word, is nie op sodanige regte en belastinge van toepassing nie indien dit, kragtens die wette en regulasies van die Ontvangerstaat, betaalbaar is deur die persoon wat met die Senderstaat gekontrakteer het.

Artikel 61

Onskendbaarheid van konsulêre argiewe en dokumente

Die konsulêre argiewe en dokumente van 'n konsulêre pos wat onder die hoof staan van 'n ere- konsulêre beampte, is te alle tye en waar hulle ook al mag wees, onskendbaar, mits hulle apart van ander stukke en dokumente gehou word en, in die besonder, van die private korrespondensie van die hoof van die konsulêre pos en van enige persoon wat saam met hom werk, en van die stukke, boeke of dokumente wat betrekking het op hul professie of beroep.

Artikel 62

Vrystelling van doeaneregte

Die Ontvangerstaat moet, ooreenkomstig wette en regulasies wat hy mag aanneem, die binnekoms toelaat van, en vrystelling verleen van alle doeaneregte, -belastinge, en aanverwante gelde uitgesonderd gelde vir stoor-, vervoer- en soortgelyke dienste op, die volgende artikels, met dien verstande dat dit vir amptelike gebruik is van die konsulêre pos wat onder die hoof staan van 'n ere- konsulêre beampte: landswapens, vlag, uithangborde, seëls en stempels, boeke, amptelike drukwerk, kantoormeubels, kantoortoerusting en soortgelyke artikels wat aan die konsulêre pos deur of in opdrag van die Senderstaat verskaf is.

Artikel 66

Vrystelling van belasting

'n Ere- konsulêre beampte is van alle regte en belastinge op vergoeding en emolumente wat hy van die Senderstaat ten opsigte van die uitvoering van sy konsulêre funksies ontvang, vrygestel.

Artikel 67

Vrystelling van persoonlike dienste en kontribusies

Die Ontvangerstaat stel ere- konsulêre beamptes vry van alle persoonlike dienste en van alle openbare dienste van enige aard hoegenaamd en van militêre verpligtinge soos dié in verband met rekwisisie, militêre kontribusies en inkwartiering.

HOOFSTUK IV

ALGEMENE BEPALINGS

Artikel 70

Uitoefening van konsulêre funksies deur diplomatieke missies

1. Die bepalinge van hierdie Konvensie is ook, vir sover deur die samehang veroorloof, op die uitoefening van konsulêre funksies deur 'n diplomatieke missie van toepassing.

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2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be notified to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

.....
4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 of this Article shall continue to be governed by the rules of international law concerning diplomatic relations.

Schedule 3**LAWS REPEALED
(Section 20)**

No. and year of law	Title	Extent of repeal
Act No. 71 of 1951	Diplomatic Privileges Act, 1951	The whole.
Act No. 69 of 1962	Commonwealth Relations Act, 1962	Sections 61 to 63, inclusive.
Act No. 61 of 1978	Diplomatic Privileges Amendment Act, 1978	The whole.
Act No. 39 of 1985	Diplomatic Privileges Amendment Act, 1985	The whole.
Act No. 73 of 1986	Restoration of South African Citizenship Act, 1986	Section 8.
Act No. 97 of 1986	Transfer of Powers and Duties of the State President Act, 1986	Sections 8 and 9, and the item in the First Schedule relating to the Diplomatic Privileges Act, 1951 (Act No. 71 of 1951).

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2. Die name van lede van 'n diplomatieke missie toegewys aan die konsulêre afdeling of andersins belas met die uitvoering van die konsulêre funksies van die missie word bekend gemaak aan die Ministerie van Buitelandse Sake van die Ontvangerstaat of aan die gesag wat deur daardie Ministerie aangewys is.

4. Die voorregte en immuniteite van die lede van 'n diplomatieke missie waarna in paragraaf 2 van hierdie Artikel verwys word, word steeds deur die reëls van internasionale reg betreffende diplomatieke betrekkinge beheers.

Bylae 3

WETTE HERROEP

(Artikel 20)

No. en jaar van wet	Titel	Omvang van herroeping
Wet No. 71 van 1951	Wet op Diplomatieke Voorregte, 1951	Die geheel.
Wet No. 69 van 1962	Wet op Statebondsbetrekkinge, 1962	Artikels 61 tot en met 63.
Wet No. 61 van 1978	Wysigingswet op Diplomatieke Voorregte, 1978	Die geheel.
Wet No. 39 van 1985	Wysigingswet op Diplomatieke Voorregte, 1985	Die geheel.
Wet No. 73 van 1986	Wet op Herverlening van Suid-Afrikaanse Burgerskap, 1986	Artikel 8.
Wet No. 97 van 1986	Wet op Oordrag van Bevoegdheide en Pligte van die Staatspresident, 1986	Artikels 8 en 9, en die item in die Eerste Bylae wat betrekking het op die Wet op Diplomatieke Voorregte, 1951 (Wet No. 71 van 1951).

