

No. 26519

**UNITED STATES OF AMERICA
and
CHINA**

**Consular Convention (with exchange of notes). Signed at
Washington on 17 September 1980**

Authentic texts: English and Chinese.

Registered by the United States of America on 27 April 1989.

**ÉTATS-UNIS D'AMÉRIQUE
et
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Enregistrée par les États-Unis d'Amérique le 27 avril 1989.

CONSULAR CONVENTION¹ BETWEEN THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA

The United States of America and the People's Republic of China,

Desiring to regulate and strengthen their consular relations, in order to promote the development of friendly and cooperative relations between the two countries, and thus to facilitate the protection of their national interests and the protection of the rights and interests of their nationals,

Have decided to conclude this Consular Convention and have appointed as their plenipotentiaries the following:

For the United States of America: Jimmy Carter, President;

For the People's Republic of China: Bo Yibo, Vice Premier,

who, having examined and exchanged their respective full powers, which were found in good and due form, have agreed as follows:

Article 1. DEFINITIONS

For the purpose of the present Convention, the terms listed below shall have the following meanings:

1. "Consulate" means a consulate general, consulate, vice consulate, or consular agency;

2. "Consular district" means the area assigned to a consulate for the exercise of consular functions;

3. "Head of a consulate" means the consul general, consul, vice consul or consular agent who is charged by the sending State to head a consulate;

4. "Consular officer" means any person, including the head of a consulate, who is charged by the sending State with the performance of consular functions;

5. "Consular employee" means any person who performs administrative, technical, or service functions at a consulate;

6. "Member of a consulate" means any consular officer or consular employee;

7. "Members of the family" means the spouse, minor children and other relatives of a member of a consulate who form a part of his household;

8. "Consular premises" means buildings or parts of buildings, as well as the grounds ancillary thereto, used exclusively for the purposes of a consulate, regardless of ownership;

9. "Consular archives" means all correspondence, codes and ciphers, documents, records, files, tapes and books of a consulate, as well as any article of furniture intended for their storage or safekeeping;

10. "Vessel of the sending State" means any vessel sailing under the flag of the sending State, in accordance with the law of the sending State, excluding military vessels;

¹ Came into force on 19 February 1982, i.e., 30 days after the exchange of the instruments of ratification, which took place at Beijing on 19 January 1982, in accordance with article 42 (2).

11. "Aircraft of the sending State" means any aircraft flying under the nationality and registration marks of the sending State, in accordance with the law of the sending State, excluding military aircraft;

12. "Law" means

- For the People's Republic of China, all national, provincial, municipal, autonomous region and local laws, ordinances, regulations and decisions having the force and effect of law;
- For the United States of America, all federal, state or local laws, ordinances, regulations and decisions having the force and effect of law.

Article 2. OPENING OF CONSULATES

1. A consulate may be established only through agreement between the sending and receiving States.

2. The determination of the seat of the consulate, its classification, and its consular district, as well as any changes pertaining thereto, shall be through agreement between the sending and receiving States.

Article 3. APPOINTMENT OF THE HEAD OF A CONSULATE

1. The sending State shall forward to the receiving State through diplomatic channels a written notification of the appointment of the head of the consulate. This notification shall contain the full name, nationality, sex and rank of the head of the consulate, a brief biography, the date on which he will begin to exercise his functions, the classification and seat of the consulate, and the consular district.

2. Upon receiving notification of the appointment of the head of the consulate, the receiving State shall, if there is no objection, confirm it in writing without delay. The head of the consulate may enter upon the performance of his functions only after the receiving State has provided such confirmation.

3. The receiving State may permit the head of a consulate to exercise his functions on a provisional basis prior to his confirmation by the receiving State.

4. The receiving State shall, immediately after granting recognition, including provisional recognition, take all measures necessary to enable the head of the consulate to exercise his functions and to enjoy the rights, facilities, privileges and immunities granted under this Convention and under the law of the receiving State.

5. If for any reason the head of a consulate is unable to exercise his functions, or if the position of the head of consulate is vacant, the sending State may place its consulate under the temporary charge of a consular officer of the same or of another consulate in the receiving State or a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State. The sending State shall notify the receiving State in advance of the full name of the person appointed as acting head of a consulate.

6. A person appointed as acting head of a consulate shall enjoy the same rights, facilities, privileges and immunities enjoyed by a head of a consulate under this Convention.

7. Entrusting a member of the diplomatic staff of the diplomatic mission of the sending State with the functions of head of a consulate does not limit the

privileges and immunities to which such person is entitled by virtue of diplomatic status, subject to the provisions of Article 33, paragraph 4 of this Convention.

Article 4. APPOINTMENT OF MEMBERS OF A CONSULATE

1. The sending State may staff its consulate with the number of members of a consulate it considers necessary. The receiving State may, however, require that the number of such members of a consulate be kept within the limits which it considers to be reasonable, having regard to existing circumstances and conditions in the consular district and the needs of a particular consulate.

2. Consular officers shall be nationals of the sending State only, and shall not be permanent residents of the receiving State.

3. The sending State shall communicate in advance, in writing, to the receiving State the full name, functions and class of each consular officer other than the head of the consulate, his arrival, final departure or termination of functions, as well as all other changes affecting the person's status while assigned to the consulate.

4. The sending State shall also notify the receiving State in writing of:

- (a) The designation of all consular employees, their full name, nationality and functions, their arrival, their final departure or termination of their functions, as well as other changes affecting their status while assigned to the consulate;
- (b) The arrival and final departure of members of the family of a member of a consulate and when any such individual becomes or ceases to be a member of the family;
- (c) The employment or dismissal of a consular employee who is a national or permanent resident of the receiving State.

Article 5. PERFORMANCE OF CONSULAR FUNCTIONS BY A DIPLOMATIC MISSION

1. The provisions of this Convention relating to consular functions, rights, facilities, privileges and immunities shall apply in the case of consular functions being performed by a diplomatic mission.

2. The names of the members of the diplomatic mission entrusted with the performance of consular functions shall be communicated to the receiving State.

3. The members of the diplomatic mission referred to in paragraph 2 of this Article shall continue to enjoy the privileges and immunities granted them by virtue of their diplomatic status, subject to the requirements of Article 33, paragraph 4, of this Convention.

Article 6. TERMINATING FUNCTIONS OF MEMBERS OF A CONSULATE

1. The receiving State may at any time, and without having to explain its decision, notify the sending State through diplomatic channels that the head of a consulate is *persona non grata* or that any other member of a consulate is unacceptable. In such a case, the sending State shall recall such person or terminate his functions in the consulate.

2. If the sending State refuses or fails within a reasonable time to carry out the obligation contained in paragraph 1 of this Article, the receiving State may

either withdraw recognition from the person concerned or refuse to consider him as a member of the consulate.

3. The functions of a member of a consulate shall come to an end, among other things, upon the:

- (a) Notification by the sending State to the receiving State that his functions have come to an end;
- (b) Withdrawal by the receiving State of recognition; or
- (c) Notification by the receiving State to the sending State that the receiving State has ceased to consider the person as a member of the consulate.

*Article 7. FACILITIES FOR THE OPERATION OF A CONSULATE
AND PROTECTION OF CONSULAR OFFICERS*

1. The receiving State shall take all necessary steps for the establishment of the proper conditions for the normal operation of a consulate and shall accord full facilities for the performance of the functions of the consulate.

2. The receiving State shall afford appropriate protection to consular officers to prevent any attack upon their person, freedom or dignity and further shall take all measures necessary to ensure that consular officers are able to perform their functions and enjoy the rights, facilities, privileges and immunities provided them under this Convention.

*Article 8. ACQUISITION OF CONSULAR PREMISES
AND RESIDENCES*

1. The sending State or its representative shall be entitled to purchase, lease or acquire in any other way, land, consular premises and residences as appropriate for consular purposes, except residences for members of a consulate who are nationals or permanent residents of the receiving State, and to construct or improve buildings for such purposes.

2. In exercising the rights provided under paragraph 1 of this Article, the sending State shall comply with the law of the receiving State, including the law relating to land, construction, zoning and town planning.

3. The receiving State shall, in conformity with its law, facilitate a consulate of the sending State in the acquisition of suitable consular premises. When necessary, the receiving State shall assist the sending State in the acquisition of residences for members of a consulate.

Article 9. USE OF THE NATIONAL FLAG AND EMBLEMS

1. The sending State shall be entitled to display the national emblem and the designation of the consulate on the consular premises in the languages of the sending and of the receiving States.

2. The sending State shall be entitled to fly the flag of the sending State on the consular premises and on the residence of the head of the consulate, as well as on the means of transport of the head of the consulate used in the performance of his official duties.

3. In exercising the rights provided by this Article, the sending State shall observe the law and customs of the receiving State.

Article 10. INVIOABILITY OF PREMISES AND RESIDENCES

1. The consular premises shall be inviolable. The authorities of the receiving State may not enter the consular premises without the consent of the head of the consulate or of the head of the diplomatic mission of the sending State or a person designated by one of those persons.

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

3. The provisions of paragraph 1 of this Article shall apply likewise to the residences of consular officers.

Article 11. INVIOABILITY OF ARCHIVES

The consular archives shall be inviolable at all times and wherever they may be. Documents and objects of an unofficial character shall not be stored in the consular archives.

Article 12. FREEDOM OF COMMUNICATIONS

1. A consulate shall be entitled to exchange communications with its government, with diplomatic missions of the sending State and with other consulates of the sending State, wherever situated. For this purpose, the consulate may employ all ordinary means of communication, including diplomatic and consular couriers, diplomatic and consular bags and codes and ciphers. The consulate may install and use a wireless transmitter only with the prior consent of the receiving State.

2. The official correspondence of a consulate, regardless of the means of communication employed, as well as sealed consular bags and other containers, provided they bear visible external marks of their official character, shall be inviolable. They may contain nothing other than official correspondence and articles intended exclusively for official use.

3. The authorities of the receiving State shall neither open nor detain the official correspondence of a consulate, including consular bags and other containers, as described in paragraph 2 of this Article.

4. The consular couriers of the sending State shall enjoy in the territory of the receiving State the same rights, privileges, facilities and immunities enjoyed by diplomatic couriers of the sending State.

5. If a master of a vessel or captain of a civil aircraft of the sending State is charged with an official consular bag, the master or captain shall be provided with an official document showing the number of containers forming the consular bag entrusted to him; he shall not, however, be considered to be a consular courier. By arrangements with the appropriate authorities of the receiving State, and in compliance with the safety regulations of the receiving State, the sending State may send a member of the consulate to take possession of the consular bag directly and freely from the master of the vessel or captain of the aircraft or to deliver such bag to him.

*Article 13. IMMUNITY OF MEMBERS OF A CONSULATE
FROM THE JURISDICTION OF THE RECEIVING STATE*

1. Members of a consulate and their family members shall be immune from the criminal jurisdiction of the receiving State.

2. Members of a consulate and their family members shall be immune from the civil and administrative jurisdiction of the receiving State respecting any act performed by them in the exercise of consular functions.

3. The provisions of paragraph 2 of this Article shall not apply to civil procedures:

- (a) Resulting from contracts that were not concluded by a member of a consulate on behalf of the sending State;
- (b) Relating to succession in which a member of a consulate was involved as executor, administrator, heir or legatee in a private capacity;
- (c) Concerning a claim by a third party for damage caused by a vessel, vehicle or aircraft;
- (d) Concerning private immovable property in the jurisdiction of the receiving State, unless the member of a consulate is holding it on behalf of the sending State for the purposes of the consulate;
- (e) Relating to any private professional or commercial activities engaged in by a member of a consulate in the receiving State outside of his official functions.

4. No measures of execution shall be taken against any of the persons mentioned in this Article, except in the cases under paragraph 3(d) of this Article, and then under the condition that these measures shall not infringe upon the inviolability of their person or residence.

5. Members of a consulate and their family members may be called upon to attend as witnesses in the course of judicial or administrative proceedings. In the event of the refusal of a consular officer or a member of the officer's family to give evidence, no coercive measure or penalty may be applied to such person. Consular employees and members of their families may not decline to give evidence except with respect to matters mentioned in paragraph 6 of this Article.

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

7. In taking testimony of members of a consulate, the authorities of the receiving State shall take all appropriate measures to avoid hindering the performance of their official consular duties. Upon the request of the head of a consulate, such testimony may, when possible, be given orally or in writing at the consulate or at the residence of the person concerned.

Article 14. WAIVER OF IMMUNITY

1. The sending State may waive the immunity from jurisdiction of members of a consulate and of members of their families provided in Article 13 of this Convention. Except as provided in paragraph 2 of this Article, such waiver shall always be express and in writing.

2. In the event a member of a consulate or a member of his family initiates legal proceedings, with respect to which he would enjoy immunity from jurisdiction under this Convention, no immunity may be invoked with regard to any counterclaim directly related to the principal claim.

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

Article 15. EXEMPTION FROM SERVICES AND OBLIGATIONS

Consular officers and consular employees and members of their families who are not nationals of the receiving State and who are not aliens lawfully admitted for permanent residence in the receiving State shall be exempt in the receiving State from obligations and services of a military nature, from any kind of compulsory services, and from any contributions that may be due in lieu thereof. They shall likewise be exempt from obligations relating to the registration of aliens, from obtaining permission to reside, and from compliance with other similar obligations applicable to aliens.

Article 16. EXEMPTION OF REAL AND MOVABLE PROPERTY FROM TAXATION

1. The sending State shall be exempt from all dues and taxes and similar charges of any kind in the receiving State, for which it otherwise would be liable, with respect to:

- (a) The consular premises and residences of members of a consulate referred to in Article 8 of this Convention;
- (b) Transactions or documents relating to such immovable property.

2. The sending State shall be exempt from all dues and taxes and similar charges of any kind on movable property which is owned, held or leased or otherwise possessed by it and which is used exclusively for consular purposes, as well as dues and taxes in connection with the acquisition, possession or maintenance of such property.

3. The provisions of subparagraph 1(a) of this Article shall not apply to payment for specific services rendered.

4. The exemptions accorded by this Article shall not apply to such dues and taxes if under the law of the receiving State they are payable by a person contracting with the sending State or with a person acting on behalf of the sending State.

5. The provisions of this Article also apply to all immovable property used for the official purposes of the diplomatic mission of the sending State, including residences of diplomatic mission personnel.

Article 17. EXEMPTION OF MEMBERS OF A CONSULATE FROM TAXATION

1. Except as provided in paragraph 2 of this Article, a member of a consulate and members of his family shall be exempt from payment of all dues and taxes and similar charges of any kind.

2. The exemption provided by paragraph 1 of this Article shall not apply with respect to:

- (a) Indirect taxes of a kind normally included in the price of goods and services;
- (b) Dues and taxes imposed with respect to private immovable property located in the territory of the receiving State, unless an exemption is provided by Article 16 of this Convention;
- (c) Estate, succession and inheritance taxes and taxes on the transfer of property rights imposed by the receiving State, except as provided in paragraph 3 of this Article;
- (d) Dues and taxes on private income earned in the receiving State;
- (e) Charges for specific services rendered;
- (f) Dues and taxes on transactions or on documents relating to transactions, including fees of any kind collected by reason of such transactions, except for fees and charges exemption from which is provided in Article 16 of this Convention.

3. If a member of a consulate or a member of his family dies, no estate, succession or inheritance tax or any other tax or charge on the transfer of movable property at death shall be imposed by the receiving State with respect to that property, provided that the presence of the property was due solely to the presence of the deceased in the receiving State in the capacity of a member of a consulate or a member of his family.

Article 18. EXEMPTIONS FROM CUSTOMS DUTIES AND INSPECTION

1. All articles, including motor vehicles, for the official use of a consulate, shall, in conformity with the law of the receiving State, be exempt from customs duties and other dues and taxes of any kind imposed upon or by reason of importation or exportation.

2. Consular officers and members of their families shall be exempt from customs duties and other charges imposed upon or by reason of importation or exportation of articles intended for their own personal use, including articles for the equipment of their households.

3. Consular employees and members of their families shall be exempt from customs duties and other charges imposed upon or by reason of the importation or exportation of articles for their own personal use, including articles for the equipment of their households, imported at time of first arrival at a consulate.

4. Articles designed for personal use shall not exceed the quantities required for direct use by the person accorded an exemption by this Article.

5. Personal baggage of consular officers and members of their families shall be exempt from customs inspection. It may be inspected only in cases where there is serious reason to believe that it contains articles other than those mentioned in paragraph 2 of this Article, or articles the importation or exportation of which is prohibited by the law of the receiving State or articles which are subject to the law of quarantine. Such inspection must be undertaken in the presence of the consular officer concerned or member of his family or his representative.

Article 19. IMMUNITY FROM REQUISITION

Consular premises as well as the official means of transport of the consulate are not liable to any form of requisition. If for the needs of the national defense or other public purposes expropriation of consular premises, residences or means of transport becomes necessary, all possible measures must be taken by the receiving State to avoid interference with the performance of consular functions and promptly to pay appropriate and effective compensation to the sending State.

Article 20. FREEDOM OF MOVEMENT

Subject to the law of the receiving State concerning zones, entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure freedom of movement and travel in its territory to members of a consulate and members of their families.

Article 21. EXCLUSION FROM THE ENJOYMENT OF RIGHTS,
FACILITIES, PRIVILEGES AND IMMUNITIES

Members of a consulate and members of their families who are either nationals or permanent residents of the receiving State shall not enjoy the rights, facilities, privileges and immunities provided by this Convention, except immunity from the obligation to give evidence concerning matters relating to the exercise of their official functions as provided in paragraph 6 of Article 13 of this Convention.

Article 22. FUNCTIONS OF CONSULAR OFFICERS

1. The functions of a consular officer consist of:

- (a) Protecting the rights and interests of the sending State and of its nationals, including juridical persons;
- (b) Rendering assistance to and cooperating with nationals of the sending State, including juridical persons;
- (c) Contributing to the development of economic, commercial, cultural, scientific and tourist relations between the sending and the receiving States;
- (d) Promoting in various ways the development of friendly relations between the sending and the receiving States;
- (e) Ascertaining by all lawful means conditions and developments in the political, commercial, economic, cultural, educational and scientific-technological life of the receiving State, and reporting thereon to the government of the sending State.

2. A consular officer shall, if authorized by the sending State, be entitled to carry out the functions described in this Convention, as well as other consular functions which are not prohibited by the law of the receiving State or to which the receiving State does not object.

Article 23. EXECUTION OF CONSULAR FUNCTIONS

1. A consular officer shall be entitled to execute his functions only within the consular district. A consular officer may execute his functions outside the limits of the consular district only with the advance consent of the receiving State given separately in each instance.

2. In executing his functions, a consular officer may approach orally or in writing:

- (a) The competent local authorities in the consular district;
- (b) The competent central authorities of the receiving State, if and to the extent allowed by the law and customs of the receiving State.

3. With the advance approval of the receiving State, the sending State may perform consular functions in the receiving State on behalf of a third State.

4. A consulate may levy in the territory of the receiving State consular fees authorized under the law of the sending State for consular acts. Any such sums levied shall be exempt from all dues and taxes in the receiving State.

Article 24. REPRESENTATION BEFORE THE AUTHORITIES
OF THE RECEIVING STATE

1. A consular officer shall be entitled, in accordance with the law of the receiving State, to take appropriate measures for the protection of the rights and interests of nationals of the sending State, including juridical persons, before the courts and other authorities of the receiving State, where, because they are not present in the receiving State or for any other reason, these nationals are not in a position to undertake timely defense of their rights and interests.

2. The measures referred to in paragraph 1 of this Article shall cease as soon as the national appoints his own representative or the national assumes the defense of his rights and interests.

3. Nothing in this Article, however, shall be construed to authorize a consular officer to act as an attorney-at-law.

Article 25. FUNCTIONS WITH REGARD TO TRAVEL DOCUMENTS

A consular officer shall be entitled to:

- 1. Issue to nationals of the sending State passports or similar travel documents, as well as make amendments in them;
- 2. Issue visas or other appropriate documents to persons wishing to travel to or through the sending State.

Article 26. FUNCTIONS REGARDING CITIZENSHIP
AND CIVIL STATUS

A consular officer shall be entitled to:

- 1. Register nationals of the sending State;
- 2. Accept applications and issue or deliver documents on matters of citizenship;
- 3. Accept applications or declarations relating to civil status from nationals of the sending State;
- 4. Register births and deaths of nationals of the sending State.

Article 27. NOTARIAL FUNCTIONS

A consular officer shall be entitled to:

- 1. Receive and witness statements made under oath or affirmation, and, in accordance with the law of the receiving State, to receive the testimony of any person for use in connection with a legal proceeding in the sending State;

2. Draw up or authenticate any act or document, as well as copies or extracts thereof, of a national of the sending State, including a juridical person, for use outside the receiving State or of any person for use in the sending State, or perform other notarial functions;
3. Authenticate documents issued by competent authorities of the receiving State for use in the sending State.

*Article 28. LEGAL FORCE OF DOCUMENTS PREPARED
BY A CONSULAR OFFICER*

The acts and documents certified or legalized by a consular officer of the sending State, as well as copies, extracts and translations of such acts and documents certified by him, shall be receivable in evidence in the receiving State as official or officially certified acts, documents, copies, translations or extracts, and shall have in the receiving State the same validity and effect as the documents certified or legalized by the competent authorities of the receiving State, provided they have been drawn and executed in conformity with the law of the receiving State and with the law of the country in which they are to be used.

Article 29. SERVING JUDICIAL AND OTHER LEGAL DOCUMENTS

A consular officer shall be entitled to serve judicial and other legal documents in accordance with international agreements in force between the sending and receiving States or, in the absence of such agreements, to the extent permitted by the law of the receiving State.

*Article 30. NOTIFICATION ON THE ESTABLISHMENT
OF GUARDIANSHIP OR TRUSTEESHIP*

1. The competent authorities of the receiving State shall notify the consulate in writing of instances in which it is necessary to establish a guardianship or trusteeship over a national of the sending State who is not of age or lacks full capacity to act on his own behalf, or over property of a national of the sending State when for whatever reason such property cannot be administered by the national of the sending State.

2. A consular officer of the sending State may, on matters mentioned in paragraph 1 of this Article, contact the appropriate authorities of the receiving State, and may propose appropriate persons to be appointed to act as guardians or trustees, in accordance with the law of the receiving State.

*Article 31. NOTIFICATION REGARDING THE DEATH
OF A NATIONAL OF THE SENDING STATE*

Whenever the competent authorities of the receiving State learn that a national of the sending State has died in the receiving State, they shall immediately notify the appropriate consular officer of the sending State and, upon his request, send him a copy of the death certificate or other documentation confirming the death.

*Article 32. NOTIFICATION REGARDING THE ESTATE
OF A DECEASED NATIONAL*

1. Whenever the appropriate local authorities of the receiving State learn of an estate resulting from the death in the receiving State of a national of the sending State who leaves in the receiving State no known heir or testamentary executor,

they shall as promptly as possible so inform a consular officer of the sending State.

2. Whenever the appropriate local authorities of the receiving State learn of an estate of a decedent, regardless of nationality, who has left in the receiving State an estate in which a national of the sending State residing outside the receiving State may have an interest under the will of the decedent or otherwise in accordance with the law of the receiving State, they shall as promptly as possible so inform a consular officer of the sending State.

Article 33. FUNCTIONS RELATING TO ESTATES

1. A consular officer shall be entitled to take appropriate measures with respect to the protection and conservation of the property of a deceased national of the sending State left in the receiving State. In this connection he may approach the competent authorities of the receiving State with a view towards protecting the interests of a sending State national, not a permanent resident of the receiving State, unless such a national is otherwise represented. He may also request the competent authorities of the receiving State to permit him to be present at the inventorying and sealing and, in general, to take an interest in the proceedings.

2. A consular officer shall be entitled to safeguard the interests of a national of the sending State who has, or claims to have, a right to property left in the receiving State by a deceased person, irrespective of the latter's nationality, and if that interested national is not in the receiving State or does not have a representative there.

3. A consular officer of the sending State shall be entitled to receive for transmission to a national of the sending State who is not a permanent resident of the receiving State any money or other property in the receiving State to which such national is entitled as a consequence of the death of another person, including shares in an estate, payments made pursuant to employees' compensation law, pension and social benefits systems in general, and proceeds of insurance policies, unless the court, agency, or person making distribution directs that transmission be effected in a different manner. The court, agency, or person making distribution may require that a consular officer comply with conditions laid down with regard to:

- (a) Presenting a power of attorney or other authorization from such national residing outside the receiving State;
- (b) Furnishing reasonable evidence of the receipt of such money or other property by such national; and
- (c) Returning the money or other property in the event he is unable to furnish such evidence.

4. In exercising the rights provided by paragraphs 1 through 3 of this Article, the consular officer must comply with the law of the receiving State in the same manner and to the same extent as a national of the receiving State and, irrespective of the provisions of Article 13 of this Convention, shall be subject in this respect to the civil jurisdiction of the receiving State. Further, nothing in these Articles shall authorize a consular officer to act as an attorney-at-law.

**Article 34. PROVISIONAL CUSTODY OF MONEY AND EFFECTS
OF A DECEASED NATIONAL OF THE SENDING STATE**

If a national of the sending State, not a permanent resident of the receiving State, dies during a temporary stay in or transit through the receiving State, and the deceased person did not leave a legal representative in the receiving State, the consular officer shall be entitled immediately to take provisional custody of the money, documents and personal effects that were in the national's possession for transfer to an heir, executor, or other person authorized to receive such property, to the extent permitted by the law of the receiving State.

**Article 35. COMMUNICATION WITH NATIONALS
OF THE SENDING STATE**

1. A consular officer shall be entitled, in his consular district, to communicate and meet with any national of the sending State, and, when necessary, to arrange for legal assistance and an interpreter. The receiving State shall in no way restrict access between a consular officer and a national of the sending State.

2. If a national of the sending State is arrested or placed under any form of detention within the consular district, the competent authorities of the receiving State shall immediately, but no later than within four days from the date of arrest or detention, notify the consulate of the sending State. If it is not possible to notify the consulate of the sending State within four days because of communications difficulties, they should try to provide notification as soon as possible. Upon the request of a consular officer, he shall be informed of the reasons for which said national has been arrested or detained in any manner.

3. The competent authorities of the receiving State shall immediately inform the national of the sending State of the rights accorded to him by this Article to communicate with a consular officer.

4. A consular officer shall be entitled to visit a national of the sending State who has been arrested or placed under any form of detention, including such national who is in prison pursuant to a judgment, to converse and to exchange correspondence with him in the language of the sending State or the receiving State, and may assist in arranging for legal representation and an interpreter. These visits shall take place as soon as possible, but, at the latest, shall not be refused after two days from the date on which the competent authorities notified the consulate that said national had been placed under any form of detention. The visits may be made on a recurring basis. No longer than one month shall be allowed to pass in between visits requested by the consular officer.

5. In the case of a trial of, or other legal proceeding against, a national of the sending State in the receiving State, the appropriate authorities shall, at the request of a consular officer, inform such officer of the charges against such national. A consular officer shall be permitted to attend the trial or other legal proceedings.

6. A consular officer is entitled to provide to a national to whom the provisions of this Article apply parcels containing food, clothing, medicaments and reading and writing materials.

7. A consular officer of the sending State may request the assistance of the authorities of the receiving State in ascertaining the whereabouts of a national of

the sending State. The authorities of the receiving State shall do everything possible to provide all relevant and available information.

8. The rights contained in this Article shall be exercised in accordance with the law of the receiving State. Nevertheless, such law shall be applied so as to give full effect to the purposes for which these rights are intended.

Article 36. RENDERING ASSISTANCE TO VESSELS

1. A consular officer shall be entitled to provide any type of assistance to vessels of the sending State which are in the territorial or inland waters, ports or other anchorages of the receiving State.

2. A consular officer may board a vessel of the sending State as soon as permission has been granted the vessel to make contact with the shore. On such occasions, he may be accompanied by members of the consulate.

3. The master and members of the crew may meet and communicate with the consular officer, observing, however, the law relating to the port and the law relating to crossing the border.

4. The consular officer may request the cooperation of the authorities of the receiving State in carrying out his functions with regard to vessels of the sending State and with regard to the master, members of the crew, passengers and cargo.

Article 37. RENDERING ASSISTANCE TO MASTER AND CREW

1. In accordance with the law of the receiving State, the consular officer shall be entitled:

- (a) To investigate any incident occurring aboard a vessel of the sending State, to question the master and any member of the crew with reference to these incidents, to inspect the vessel's papers, to receive information in connection with the voyage and destination of the vessel and also to render assistance in connection with the entry, stay and departure of a vessel of the sending State;
- (b) To settle disputes between the master and a crew member, including disputes concerning wages and employment contracts, to the extent that this action is authorized by the law of the sending State;
- (c) To take steps connected with the signing on and the discharge of the master and of any crew member;
- (d) To take steps for hospitalization or repatriation of the master or a member of the crew of the vessel;
- (e) To receive, draw up or certify any declaration or other document provided for by the law of the sending State in regard to the vessel of the sending State or its cargo.

2. The consular officer may, if permitted by the law of the receiving State, appear together with the master or a crew member before the courts or other authorities of the receiving State in order to render them any assistance.

Article 38. PROTECTION OF INTERESTS IN CASE OF INVESTIGATIONS

1. When the courts or other competent authorities of the receiving State intend to take compulsory actions or to start an official investigation aboard a vessel of the sending State which is in the internal or territorial waters of the receiving State, or on the shore with regard to the master or member of the crew,

those authorities must notify the appropriate consular officer of the sending State. If, because of the urgency of the matter, it has not been possible to inform the consular officer before initiation of the actions involved, and the consular officer or his representative has not been present when the actions were carried out, the competent authorities of the receiving State shall promptly provide him with the full relevant particulars of the actions taken.

2. Except at the request of the vessel's master or the consular officer, the judicial or other competent authorities of the receiving State shall not interfere in the internal affairs of the vessel on questions of relations between the members of the crew, labor relations, discipline and other activities of an internal character, when the peace and safety of the receiving State are not violated.

3. The provisions of paragraph 1 of this Article shall not be applied, however, to ordinary customs, passport and sanitary controls, or, in accordance with treaties in force between the two States, to the saving of human life at sea, prevention of pollution of the sea, or to other activities undertaken at the request of, or with the consent of, the master of the vessel.

Article 39. ASSISTANCE TO DAMAGED VESSELS

1. If a vessel of the sending State is wrecked or grounded, or suffers any other damage in the internal or territorial waters of the receiving State, the competent authorities of the receiving State shall inform the consulate as soon as possible and inform it of the measures taken for saving the passengers, the vessel, its crew and cargo.

2. A vessel which has suffered a misfortune and its cargo and provisions shall not be subject to customs duties on the territory of the receiving State unless they are delivered for use in that State.

Article 40. FUNCTIONS WITH REGARD TO AIRCRAFT

The relevant provisions of Articles 36 through 39 of this Convention shall also apply to civil aircraft on the condition that such application is not contrary to the provisions of any bilateral or multilateral agreement in force between the two States.

Article 41. OBSERVING THE LAW OF THE RECEIVING STATE

1. All persons enjoying privileges and immunities under this Convention are obliged, without prejudice to their privileges and immunities, to observe the law of the receiving State, including traffic regulations, and to respect the customs of the receiving State, and may not interfere in the internal affairs of the receiving State.

2. Consular officers and consular employees who are nationals of the sending State may not carry on any profession or undertake any activity for personal profit on the territory of the receiving State other than their official duties.

3. All means of transportation of the consulate or of members of a consulate and their families shall be adequately insured against civil actions by third parties.

Article 42. ENTRY INTO FORCE AND RENUNCIATION

1. The present Convention shall be subject to ratification. The exchange of instruments of ratification shall take place as soon as possible at Beijing.

2. The present Convention shall enter into force after the expiration of thirty days following the date of the exchange of instruments of ratification.

3. The present Convention shall remain in force until the expiration of six months from the date on which one of the Contracting Parties gives to the other Contracting Party written notification of its intention to terminate the Convention.

DONE at Washington this seventeenth day of September, 1980, in duplicate in the English and Chinese languages, both texts being equally authentic.

For the United States
of America:

[Signed — Signé¹]

For the People's Republic
of China:

[Signed — Signé²]

¹ Signed by Jimmy Carter — Signé par Jimmy Carter.

² Signed by Bo Yibo — Signé par Bo Yibo.

EXCHANGE OF NOTES

I

The Secretary of State to the Chinese Ambassador

DEPARTMENT OF STATE
WASHINGTON

September 17, 1980

Excellency:

I have the honor to confirm on behalf of the Government of the United States of America that in the course of negotiating the Consular Convention between the United States of America and the People's Republic of China, the two sides reached agreement on the following questions:

1. The two governments agree to facilitate the reunion of families and will process all applications as quickly as possible under mutually agreed arrangements and in accordance with each side's laws and regulations.

2. The two governments agree to facilitate travel between their respective countries of persons who may have a claim simultaneously to the nationality of the United States of America and the People's Republic of China, but this does not imply that the governments of the two countries recognize dual nationality. Exit formalities and documentation shall be dealt with in accordance with the laws of the country in which such person resides. Entry formalities and documentation shall be dealt with in accordance with the laws of the country of destination.

3. All nationals of the sending State entering the receiving State on the basis of travel documents of the sending State containing properly executed entry and exit visas of the receiving State will, during the period for which their status has been accorded, and in accordance with the visa's period of validity, be considered nationals of the sending State by the appropriate authorities of the receiving State for the purpose of ensuring consular access and protection by the sending State as provided for in Article 35 of the Consular Convention between the United States of America and the People's Republic of China. If judicial or administrative proceedings prevent the above-mentioned persons from leaving the country within the visa's period of validity, they shall not lose the right of consular access and protection by the sending State. Such persons shall be permitted to leave the receiving State without the necessity of obtaining documentation from the receiving State other than the exit documentation normally required of departing aliens.

4. Both governments agree that persons residing in one country who are entitled to receive financial benefits from the other country shall receive their benefits under mutually agreed arrangements and in accordance with each country's laws and regulations.

If your Excellency confirms the above by a note in reply on behalf of the Government of the People's Republic of China, this note shall constitute an integral part of the above-mentioned Consular Convention and shall come into effect simultaneously with the Consular Convention. At that time, the Annex on Practical Arrangements to the Agreement between the Government of the United

States of America and the Government of the People's Republic of China on the Mutual Establishment of Consular Relations and the Opening of Consulates General, signed on January 31, 1979,¹ will cease to be in effect.

Accept, Excellency, the renewed assurances of my highest consideration.

[Signed — Signé]²

His Excellency Chai Zemin
Ambassador of the People's Republic of China

II

[CHINESE TEXT — TEXTE CHINOIS]

The Chinese Ambassador to the Secretary of State

N O. 80/051.

美利坚合众国国务卿马斯基先生阁下：

我谨收到阁下今天的来照如下：

“我谨代表美利坚合众国政府确认在谈判美利坚合众国和中华人民共和国领事条约的过程中，我们双方就下列问题达成了协议：

一、两国政府同意便利家庭团聚，并按照双方同意的安排和各自的法律和规章尽快地处理一切申请。

二、两国政府同意给予自称同时具有美利坚合众国国籍和中华人民共和国国籍的人在两国间旅行的便利，但这并不意味着两国政府承认双重国籍。

¹ United Nations, *Treaty Series*, vol. 1147, p. 179.

² Signed by Edmund S. Muskie — Signé par Edmund S. Muskie.