

Seychelles

## Privileges and Immunities (Diplomatic, Consular and International Organisations) Act

Act 9 of 1980

Legislation as at 30 June 2012

FRBR URI: /akn/sc/act/1980/9/eng@2012-06-30

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# Seychelles

## Privileges and Immunities (Diplomatic, Consular and International Organisations) Act

### Act 9 of 1980

Commenced on 31 January 1980

*[This is the version of this document at 30 June 2012 and includes any amendments published up to 30 June 2014.]*

#### Part I – Preliminary

##### 1. Short title

This Act may be cited as the Privileges and Immunities (Diplomatic, Consular and International Organizations) Act.

##### 2. Interpretation

In this Act, unless the context otherwise requires—

"**Convention on the Privileges and Immunities of the Specialized Agencies**" means the Convention on the Privileges and Immunities of the Specialized Agencies approved by the General Assembly of the United Nations on 21st November, 1947;

"**Convention of Special Missions**" means the Convention on Special Missions signed at New York on 16th December, 1969;

"**General Convention**" means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13th February, 1946;

"**Vienna Convention on Consular Relations**" means the Vienna Convention on Consular Relations signed at Vienna on 24th April, 1963;

"**Vienna Convention on Diplomatic Relations**" means the Vienna Convention on Diplomatic Relations signed at Vienna on 18th April, 1961.

#### Part II – Diplomatic privileges and immunities

##### 3. Application of the Vienna Convention on Diplomatic Relations

(1) Subject to [section 4](#), the Articles set out in the First Schedule (being Articles of the Vienna Convention on Diplomatic Relations) shall have the force of law in Seychelles and shall for that purpose be construed in accordance with the following provisions of this section.

(2) In the Articles referred to in subsection (1)—

"agents of the receiving State" shall be construed as including any police officer and any person exercising a power of entry to any premises under any law in force in Seychelles;

"member of the family" shall be construed as meaning, in relation to any person, the spouse or any dependent relative of that person;

"Ministry of Foreign Affairs or such other Ministry as may be agreed" shall be construed as meaning the Ministry for the time being responsible for Foreign Affairs of the Government of Seychelles;

"mission" shall be construed as meaning any Embassy or High Commission;

"national of the receiving State" shall be construed as meaning any citizen of Seychelles.

- (3) For the purpose of Article 32 a waiver by the head of the mission of any State or any person performing his functions shall be deemed to be a waiver by that State.
- (4) The exemption granted by Article 33 with respect to any services shall be deemed to except those services from any class of employment that is insurable employment, or in respect of which contributions are required to be paid, under the Social Security
- (5) Articles 35, 36 and 40 shall be construed as granting any privilege or immunity which they require to be granted.
- (6) The references in Articles 37 and 38, to the extent to which any privileges and immunities are admitted by the receiving State and to additional privileges and immunities that may be granted by the receiving State, shall be construed as referring respectively to the extent to which any privileges and immunities that the Minister may specify by order and to any privileges and immunities that may be so specified.

#### **4. Restriction, variation and reservation of privileges and immunities**

- (1) If it appears to the Minister that the privileges and immunities accorded to a mission of Seychelles in the territory of any State or to the persons connected with that mission are less than those conferred by this Act on the mission of that State or on persons connected with that mission, the Minister may, by order, withdraw such of the privileges and immunities so conferred from the mission of that State or from the persons connected with it as appears to the Minister to be proper.
- (2) When any privileges and immunities are withdrawn from a State by the Minister under subsection (1), the Minister may reinstate the privileges to that State at any time if it appears to him to be proper to do so.

#### **5. Agreements providing for additional or reduced privileges and immunities**

- (1) The Minister may, by order, confer immunities or privileges other than those conferred by or under this Part in respect of any sovereign power or any class of persons employed by such power if in the opinion of the Minister such immunities or privileges are necessary to accord with corresponding immunities and privileges granted by such power in respect of Seychelles.
- (2) Where any agreement between Seychelles and another State provides for according to a sovereign power or any class of persons employed by such power some but not all of the privileges and immunities accorded to them by or under this Part, the Minister may, by order, provide for excluding, with respect to such power and any class of persons employed by such power, any of those privileges and immunities that are not provided by the agreement.

### **Part III – Consular privileges and immunities**

#### **6. Application of the Vienna Convention on Consular Relations**

- (1) Subject to [section 7](#), the provisions set out in the Second Schedule (being Articles or parts of Articles of the Vienna Convention on Consular Relations) shall have the force of law in Seychelles and shall for that purpose be construed in accordance with subsections (2) to (10).
- (2) In the provisions mentioned in subsection (1)—

"authorities of the receiving State" shall be construed as including any police officer and any person exercising a power of entry to any premises under any law in force in Seychelles;

"diplomatic mission" shall be construed as meaning any Embassy or High Commission;

"grave crime" shall be construed as meaning any offence punishable (on a first conviction) with imprisonment for a term that may extend to five years or with a more severe sentence;

"member of the family" shall be construed as meaning, in relation to any person, the spouse or any dependent relative of that person;

"Ministry of Foreign Affairs" shall be construed as meaning the Ministry for the time being responsible for Foreign Affairs of the Government of Seychelles;

"national of the receiving State" shall be construed as meaning any citizen of Seychelles.

- (3) The references in Article 17(2) to any privileges and immunities accorded by customary international law or by international agreements shall be construed as a reference to any privileges and immunities conferred under Parts IV, V and VI.
- (4) The references in Article 44 to matters connected with the exercise of the functions of members of a consular post shall be construed as references to matters connected with the exercise of consular functions by consular officers or consular employees.
- (5) For the purposes of Article 45 and that Article as applied by Article 58 a waiver shall be deemed to have been expressed by a State if it has been expressed by the head or any person for the time being performing the functions of the head of the diplomatic mission of that State or if there is no such mission, of the consular post concerned.
- (6) The exemption granted by Article 48 with respect to any services shall be deemed to except those services from any class of employment that is insurable, or in respect of which contributions are required to be paid, under the Social Security Act.
- (7) Articles 50, 51, 52, 54, 62 and 67 shall be construed as granting any privileges or immunity that they require to be granted.
- (8) The reference in Article 57 to the privileges and immunities provided in Chapter II shall be construed as referring to those provided in Section II of that Chapter.
- (9) The reference in Article 70 to the rules of international law concerning diplomatic relations shall be construed as a reference to the provisions of Part II.
- (10) The references in Article 71 to additional privileges and immunities that may be granted by the receiving State or to privileges and immunities so far as these are granted by the receiving State shall be construed as referring to such privileges and immunities as may be specified by the Minister by order.

## **7. Application of sections 4 and 5**

Sections 4 and 5, as they apply to a mission and to persons connected therewith, apply "*mutatis mutandis*" in relation to a consular post and the persons connected therewith.

## **8. Right of diplomatic agents and consular officers to administer oaths and do notarial acts in certain cases**

- (1) A diplomatic agent or consular officer of any State may, if authorized to do so under the laws of that State, administer oaths, affidavits and do notarial acts—
  - (a) required by a person for use in that State or under the laws thereof; or
  - (b) otherwise required by a national of that State but not for use in Seychelles except under the laws of some other country.
- (2) The Minister may, by order, exclude or restrict the provisions of subsection (1) in relation to the diplomatic agents or consular officers of any State if it appears to him that in any territory of that State diplomatic agents or consular officers of Seychelles are not permitted to perform functions corresponding in nature and extent to those authorized by that subsection.

- (3) In this section "diplomatic agent" has the same meaning as in Article 1 in the First Schedule.

## 9. Commonwealth and Irish consular officers

If consular officers are appointed by the Government of any other country within the Commonwealth or of the Republic of Ireland to serve in Seychelles, the Minister may, by order, make such adaptations of any provision, of the applied Acts entitled the Merchant Shipping Acts, 1894 to 1965, in so far as it forms part of the law of Seychelles or of any other Law of Seychelles in substitution therefor relating to Merchant Shipping referring to a consular officer of a foreign state as appear to him to be necessary or expedient to make the provision applicable to consular officers appointed as aforesaid and to dispense with any requirement as to the conclusion of a consular convention.

## Part IV – Privileges and immunities of the United Nations, and of judges of, and suitors to, the International Court of Justice

### 10. Application of the Geneva Convention

- (1) The Articles set out in the Third Schedule (being the Articles of the General Convention) shall have the force of law in Seychelles and shall be construed in accordance with the following provisions of this section.
- (2) In the Articles referred to in subsection (1)—
- (a) the reference in Article 1 to the effect that the United Nations shall possess juridical personality shall be construed as meaning that the United Nations is a body corporate;
  - (b) the term "a national" in relation to Seychelles shall be construed as meaning a citizen of Seychelles.

### 11. Immunities and privileges of judges of, and suitors to the International Court of Justice

The Minister may, by order, confer to the judges and registrars of the International Court of Justice established under the Charter of the United Nations and on suitors to that Court and their agents, counsel and advocates, such immunities privileges and facilities as may be required to give effect to any resolution of, or convention approved by, the General Assembly of the United Nations.

## Part V – Privileges and immunities of the Specialized Agencies

### 12. Application of the Convention on the Privileges and Immunities of the Specialized Agencies

- (1) The Articles set out in the Fourth Schedule (being Articles of the Convention on the Privileges and Immunities of the Specialized Agencies) shall have the force of law in Seychelles and shall be construed in accordance with the following provisions of this section.
- (2) In the Articles referred to in subsection (1)—
- (a) the reference in section 3 of Article II to the effect that the Specialized Agencies shall possess juridical personality shall be construed as meaning that the Specialized Agencies are bodies corporate;
  - (b) the term "a national" in relation to Seychelles shall be construed as meaning a citizen of Seychelles.

## Part VI – Privileges and immunities of specified organizations and of representatives attending international conferences

### 13. Privileges and immunity of specified organizations

- (1) This section applies to any organization declared by the Minister, by order to be an organization of which—
  - (a) Seychelles or the Government of Seychelles, and
  - (b) one or more other sovereign powers, or the government or governments of one or more such powers,are members.
- (2) Subject to subsection (7) the Minister may, by order, specify an organization to which this section applies and may make any one or more of the following provisions in respect of the organization so specified (hereinafter in this section referred to as "the organization") that is to say—
  - (a) confer on the organization the legal capacities of a body corporate;
  - (b) provide that the organization shall, to such extent as may be specified in the order, have the privileges and immunities set out in Part I of the Fifth Schedule;
  - (c) confer the privileges and immunities set out in Part II of the Fifth Schedule to such extent as may be specified in the order, on persons of any such class as is mentioned in subsection (3);
  - (d) confer the privileges and immunities set out in Part III of the Fifth Schedule, to such extent as may be specified in the order, on such classes of officers and servants of the organization (no being classes mentioned in subsection (3)) as may be specified.
- (3) The classes of persons referred to in subsection (2) (c) are—
  - (a) persons who (whether they represent Governments or not) are representatives to the organization or representatives on, or members of, any organ or committee of the organization;
  - (b) such number of officers of the organization as may be specified in the order, being the holders (whether permanent or otherwise) of such high offices in the organization as may be so specified; and
  - (c) persons employed by or serving under the organization as experts or as persons engaged on missions for the organization.
- (4) Where an order is made under subsection (2), the provisions of Part IV of the Fifth Schedule shall have effect for the purpose of extending to the staffs or representatives mentioned in subsection (3) (a) and to the families of officers of the organization any immunities and privileges conferred on the representatives or officers mentioned in subsection (3), except insofar as the operation of the provisions of Part IV is excluded by the order conferring the immunities and privileges.
- (5) Where an order is made under subsection (2), then for the purpose of giving effect to any agreement made in that behalf between Seychelles or the Government of Seychelles and the organization, the Minister may, by the same or any subsequent order, confer the exemptions set out in subsection (6) in respect of—
  - (a) members of the staff of the organization recognized by the Government of Seychelles as holding a rank equivalent to that of a diplomatic agent; and
  - (b) members of the family of any such member of the staff of the organization who form part of his household.

- (6) In the event of the death of the person in respect of whom the exemption under subsection (5) are conferred, exemptions from—
- (a) estate duty leviable on his death under any law for the time being in force in Seychelles in respect of movable property that is in Seychelles immediately before his death and the presence of which in Seychelles that time is due solely to his presence there in the capacity by reference to which the exemptions are conferred;
  - (b) capital gains tax on net chargeable gains in relation to any such movable property accruing to that person in the year of assessment in which he died.
- (7) An order made under subsection (2) or (3) shall be so framed as to secure—
- (a) that the privileges and immunities conferred by the order are not greater in extent than those which, at the time when the order takes effect, are required to be conferred in accordance with any agreement to which Seychelles or the Government is then a party (whether made with one or more other sovereign powers or Governments or made with one or more organizations such as are mentioned in subsection (1)); and
  - (b) that no privilege or immunity is conferred on any person as the representative of Seychelles or of the Government of Seychelles, or as a member of the staff of such a representative.

#### 14. Privileges and immunities of representatives attending international conferences

- (1) Where a conference is held in Seychelles and is attended by representatives of the Governments of one or more sovereign powers, and it appears to the Minister that doubts may arise as to the extent to which the representative of attending those governments (other than the Government of Seychelles) and members of their official staffs are entitled to immunities and privileges, the Minister may, by notice published in the *Gazette*, direct that every representative of any such Government (other than the Government of Seychelles) shall for the purpose of any enactment or custom relating to diplomatic immunities and privileges, be treated as if he were a head of mission, and that such of the members of his official staff as the Minister may, from time to time, direct shall be treated for the purpose aforesaid as if they were members of the official staff of a head of mission.
- (2) For the purposes of subsection (1), the Minister may compile a list of the representatives of the governments aforesaid (other than the Government of Seychelles) and members of their official staffs as he thinks proper, and shall cause the list and any amendment of that list to be published in the *Gazette* and the publication shall include a statement of the day from which the list or amendment, as the case may be, takes or took effect.
- (3) In subsection (1)—
- "head of mission" means an Ambassador, High Commissioner or other person, by whatever title called, accredited by a sovereign power and recognized as a head of mission in Seychelles by the Government of Seychelles.

### Part VII – Privileges and immunities of special missions

#### 15. Privileges and immunities of special missions

- (1) The Articles set out in the Sixth Schedule (being Articles of the Convention on Special Mission) shall have the force of law in Seychelles and shall be construed in accordance with the following provisions of this section.
- (2) In the provisions mentioned in subsection (1)—
- "agents of the receiving State" shall be construed as meaning any police officer and any person exercising a power of entry to any premises under any law in force in Seychelles;



"member of the family" shall be construed as meaning, in relation to any person, the spouse or any dependent relative of that person;

"Ministry of Foreign Affairs" shall be construed as meaning the Ministry for the time being responsible for Foreign Affairs of the Government of Seychelles;

"national of the receiving State" shall be construed as meaning any citizen of Seychelles.

- (3) For the purposes of Article 41, a waiver by the head of the special mission or any person performing his functions shall be deemed to be a waiver by the sending State.

## Part VIII – General

### 16. Certificate of Minister to be conclusive evidence

If in any proceedings a question arises whether or not a person is entitled to a privilege or immunity under this Act, a certificate issued by or under the authority of the Minister stating any fact relating to that question shall be conclusive evidence of that fact.

### 17. Regulations

The Minister may make regulations for carrying into effect the purposes of this Act.

## First Schedule (Section 3)

### Articles of the Vienna Convention on Diplomatic Relations having the force of law in Seychelles

#### Article 1

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

- (a) "head of the mission" is the person charged by the sending State with the duty of acting in that capacity;
- (b) "members of the mission" are the head of the mission and the members of the staff of the mission;
- (c) "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) "members of the diplomatic staff" are the members of the staff of the mission having diplomatic rank;
- (e) "diplomatic agent" is the head of the mission or a member of the diplomatic staff of the mission;
- (f) "members of the administrative and technical staff" are the members of the staff of the mission employed in the administrative and technical service of the mission;
- (g) "members of the service staff" are the members of the staff of the mission in the domestic service of the mission;
- (h) "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) "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 furnishing 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 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.
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 bags 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 paragraph 1(a), (b) and (c) 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. The waiver must always be express.
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 counterclaim 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 judgement, 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 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;

- (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 (inclusive).
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 (inclusive), 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 shall, if they 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 contain 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 38

1. Except in so far as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanently resident in that State shall enjoy only immunity from jurisdiction, and inviolability, in respect of official act performed in the exercise of his functions.
2. Other members of the staff of the mission and private servants who are nationals of or permanently resident in the receiving State shall 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 the 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 the 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 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 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*.

## Second Schedule (Section 6)

### Articles of the Vienna Convention on Consular Relations having the force of law in Seychelles

#### 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;

- (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 a consular post;
- (j) "**consular premises**" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purpose 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 safe-keeping.

## Chapter 1 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;
- (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 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 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 15 – Temporary exercise of the functions of the head of a consular post**

1. If the head of a consular post is unable to carry out his functions or the position of head of consular post is vacant, an acting head of post may act provisionally as head of the consular post.
2. The full name of the acting head of post shall be notified either by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, or, if he is unable to do so, by any competent authority of the sending State, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry. As a general rule, this notification shall be given in advance. The receiving State may make the admission as acting head of post of a person who is neither a diplomatic agent nor a consular officer of the sending State in the receiving State conditional on its consent.
3. The competent authorities of the receiving State shall afford assistance and protection to the acting head of post. While he is in charge of the post, the provisions of the present Convention shall apply to him on the same basis as to the head of the consular post concerned. The receiving State shall not, however, be obliged to grant to an acting head of post any facility, privilege or immunity which the head of the consular post enjoys only subject to conditions not fulfilled by the acting head of post.
4. When, in circumstances referred to in paragraph 1 of this Article, a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving state is designated by the sending State as an acting head of post, he shall, if the receiving State does not object thereto, continue to enjoy diplomatic privileges and immunities.

### **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 intergovernmental 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**

#### **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 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.
3. Subject to the provisions of paragraph 2 of this Article, the receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.
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 time and wherever they may be.

##### **Article 35 – Freedom of communications**

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, then 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, 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 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 exempted from all dues and taxes in the receiving State.

## **II. Facilities, privileges and immunities relating to career consular officers and other members or 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 implicitly 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 witness in the course of judicial or administrative proceedings. A consular employee or a member 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**

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 – Exemptions 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—
  - (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.
3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

### **Article 50 – Exemptions 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 member 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 paragraph 1(b) 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 contribution**

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 public service and 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 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 the 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 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 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.
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**

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 of other institutions or agencies being installed in part of the building in which the consular premise 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 57 – Special provisions concerning private gainful occupation**

1. 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 subparagraph (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, 39, 54(3), 55(2) and (3) 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, 44(3), 45 and 53 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.
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 at a consular post headed by an honorary consular officers.

#### **Article 59 – Protection of the consular premises**

The receiving State shall take such steps as may be necessary to protect the consular premises of a consular post headed by an honorary consular officer against any intrusion or damage and to prevent any disturbance of the peace of the consular officer post or impairment of its dignity.

#### **Article 60 – Exemption from taxation of consular premises**

1. Consular premises of a consular post headed by an honorary consular officer to 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 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**

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.

### **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.
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 of 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.

*[Please note: numbering as in original.]*

### **Article 71 – Nationals or permanent residents of the receiving State**

1. Except insofar as additional facilities, privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided in Article 44(3). So far as these consular officers are concerned, the receiving State shall likewise be bound by the obligation laid down in Article 43. If criminal proceedings are instituted against such a consular officer, the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible.
2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families or consular officers referred to in paragraph 1 of this Article, shall enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over those persons in such a way as not to hinder unduly the performance of the functions of the consular post.



### **Third Schedule (Section 10)**

## **Articles of the Convention on the Privileges and Immunities of the United Nations having the force of law in Seychelles**

### **Article 1 – Juridical personality**

1.

The United Nations shall possess juridical personality.

It shall have the capacity—

- (a) to contract;
- (b) to acquire and dispose of immovable and movable property;
- (c) to institute legal proceedings.

### **Article II – Property, funds and assets**

2.

The premises of the United Nations, its property and assets wherever located and by whomever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

3.

The premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

4.

The archives of the United Nations, and in general all documents belonging to it or held by it, shall be inviolable wherever located.

5.

Without being restricted by financial controls, regulations or moratoria of any kind—

- (a) the United Nations may hold funds, gold or currency of any kind and operate accounts in any currency;
- (b) the United Nations shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency.

6.

In exercising its rights under section 5 of the United Nations shall pay due regard to any representations made by the Government of any Member insofar as it is considered that effect can be given to such representations without detriment to the interests of the United Nations.

7.

The United Nations, its assets, income and other property shall be—

- (a) exempt from all direct taxes; it is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services;
- (b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use; it is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country;
- (c) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

8.

While the United Nations will not, as a general rule, claim exemption from exercise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the United Nations is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

9.

The United Nations shall enjoy in the territory of each Member for its official communications treatment not less favourable than that accorded by the Government of that Member to any other Government including its diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications; and press rates for information to the press and radio. No censorship shall be applied to the official correspondence and other official communications of the United Nations.

10.

The United Nations shall have the right to use codes and to despatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

#### **Article IV – The representatives of members**

11.

Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities—

- (a) immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind;
- (b) Inviolability for all papers and documents;
- (c) the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (d) exemption in respect of themselves and their spouses from immigration restrictions, alien registration or national service obligations in the State they are visiting or through which they are passing in the exercise of their functions;

- (e) the same facilities in respect of currency or exchange restrictions as are accorded representatives of foreign government on temporary official missions;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys; and also
- (g) such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes.

**12.**

In order to secure, for the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Members.

**13.**

Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences by the United Nations are present in a State for the discharge of their duties shall not be considered as periods of residence.

**14.**

Privileges and immunities are accorded to the representatives of Members not for the personal benefit of the individual themselves, but in order to safeguard the independent exercise of their functions in connection with the United Nations. Consequently a Member not only has the right but is under a duty to waive the immunity of its representative in any case where in the opinion of the Member the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

**15.**

The provisions of section [11](#), [12](#), and [13](#) are not applicable as between a representative and the authorities of the State of which he is a national or of which he is or has been the representative.

**16.**

In this Article the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

## **Article V – Officials**

**18.**

Officials of the United Nations shall—

- (a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
- (b) be exempt from taxation on the salaries and emoluments paid to them by the United Nations;
- (c) be immune from national service obligations;

- (d) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;
- (e) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned;
- (f) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;
- (g) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

**19.**

In addition to the immunities and privileges specified in [section 18](#), the Secretary-General and all Assistant Secretaries-General shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

**20.**

Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.

**21.**

The United Nations shall co-operate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Article.

**22.**

Experts (other than officials coming within the scope of Article V) performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular they shall be accorded—

- (a) immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the United Nations;
- (c) inviolability for all papers and documents;
- (d) for the purpose of their communications with the United Nations, the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

23.

Privileges and immunities are granted to experts in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and duty to waive the immunity of any expert in any case where, in his opinion the immunity would impede the course of justice and it can be waived without prejudice to the interests of the United Nations.

### **Article VII – United Nations laissez-passer**

24.

The United Nations may issue United Nations *laissez-passer* to its officials. The *laissez-passer* shall be recognized and accepted as valid travel documents by the authorities of Members, taking into account the provisions of [Section 25](#).

25.

Applications for visas (where required) from the holders of United Nations *laissez-passer*, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

26.

Similar facilities to those specified in [Section 25](#) shall be accorded to experts and other persons who, though not the holders of United Nations *laissez-passer*, have a certificate that they are travelling on the business of the United Nations.

27.

The Secretary-General, Assistant Secretaries-General and Directors travelling on United Nations *laissez-passer* on the business of the United Nations shall be granted the same facilities as are accorded to diplomatic envoys.

## **Fourth Schedule (Section 12)**

### **Articles of the Convention on the Privileges and Immunities of the Specialized Agencies having the force of law in Seychelles**

#### **Article 1 – Definitions and scope**

1.

In this Convention—

- (i) the words "standard clauses" refer to the provisions of Articles II to VIII;
- (ii) the words "specialized agencies" mean—
  - (a) the International Labour Organization;
  - (b) the Food and Agriculture Organization of the United Nations;
  - (c) the United Nations Educational, Scientific and Cultural Organization;
  - (d) the International Civil Aviation Organization;

- (e) the International Monetary Fund;
  - (f) the International Bank for Reconstruction and Development;
  - (g) the World Health Organization;
  - (h) the Universal Postal Union;
  - (i) the International Telecommunication Union; and
  - (j) any other agency in relationship with the United Nations in accordance with Articles 57 and 63 of the Charter;
- (iii) the word "Convention" means, in relation to any particular specialized agency, the standard clauses as modified by the final (or revised) text of the annex transmitted by that agency in accordance with sections 36 and 38;
- (iv) for the purposes of article III, the words "property and assets" shall also include property and funds administered by a specialized agency in furtherance of its constitutional functions;
- (v) for the purposes of articles V and VII, the expression "representatives of members" shall be deemed to include all representatives, alternates, advisers, technical experts and secretaries of delegations;
- (vi) in sections 13, 14, 15 and 25, the expression "meetings convened by a specialized agency" means meetings—
- (1) of its assembly and of its executive body (however designated);
  - (2) of any commission provided for in its constitution;
  - (3) of any international conference convened by it, and
  - (4) of any committee of any of these bodies;
- (vii) the term "executive head" means the principal executive official of the specialized agency in question, whether designated "Director-General" or otherwise

## **Article II – Juridical personality**

### **3.**

The Specialized agencies shall possess juridical personality.

They shall have the capacity—

- (a) to contract,
- (b) to acquire and dispose of immovable and movable property,
- (c) to institute legal proceedings

## **Article III – Property, funds and assets**

### **4.**

The specialized agencies, their property and assets wherever located and by whomever held, shall enjoy immunity from every form of legal process except in so far as in any particular case they have expressly waived their immunity; it is understood, however, that no waiver of immunity shall extend to any measure of execution.

5.

The premises of the specialized agencies shall be inviolable. The property and assets of the specialized agencies, wherever located and by whomever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

6.

The archives of the specialized agencies, and in general all documents belonging to them or held by them, shall be inviolable, wherever located.

7.

Without being restricted by financial controls, regulations or moratoria of any kind—

- (a) the specialized agencies may hold funds, gold or currency of any kind and operate accounts in any currency;
- (b) the specialized agencies may freely transfer their funds, gold or currency from one country to another or within any any country and convert any currency held by them into any other currency.

9.

The specialized agencies, their assets, income and other property shall be—

- (a) exempt from all direct taxes; it is understood, however that the specialized agencies will not claim exemption from taxes which are, in fact, no more than charges for public utility services;
- (b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the specialized agencies for their official use; it is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed to with the Government of that country;
- (c) exempt from duties and prohibitions and restrictions on imports and exports in respect of their publications.

10.

While the specialized agencies will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which forms part of the price to be paid, nevertheless when the specialized agencies are making important purchase for official use of property on which such duties and taxes have been charged or are chargeable, State parties to this Convention will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

## **Article V – Representatives of members**

13.

Representatives of members at meetings convened by a specialized agency shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy the following privileges and immunities—

- (a) immunity from personal arrest or detention and from seizure of their personal baggage and in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind;

- (b) inviolability for all papers and documents;
- (c) the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (d) exemption in respect of themselves and their spouses from immigration restrictions, aliens' registration or national service obligations in the State which they are visiting or through which they are passing in the exercise of their functions;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.

**14.**

In order to secure for the representatives of members of the specialized agencies at meetings convened by them complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

**15.**

Where the incidence of any form of taxation depends upon residence, periods during which the representatives of members of the specialized agencies at meetings convened by them are present in a member State for the discharge of their duties shall not be considered as periods of residence.

**16.**

Privileges and immunities are accorded to the representatives of members, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the specialized agencies. Consequently, a member not only has the right but is under a duty to waive the immunity of its representatives in any case where in the opinion of the member, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.

**17.**

The provisions of sections [13](#), [14](#) and [15](#) are not applicable in relation to the authorities of a State of which the person is a national or of which he is or has been a representative.

## **Article VI – Officials**

**18.**

Each specialized agency will specify the categories of officials to which the provisions of this article and article VIII shall apply. It shall communicate them to the governments of all States parties to this Convention in respect of that agency and to the Secretary-General of the United Nations. The names of the officials included in these categories shall from time to time be made known to the above-mentioned Governments.

**19.**

Officials of the specialized agencies shall—

- (a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;



- (b) enjoy the same exemptions from taxation in respect of the salaries and emoluments paid to them by the specialized agencies and on the same conditions as are enjoyed by officials of the United Nations;
- (c) be immune, together with their spouses and relatives dependent upon them, from immigration restrictions and alien restriction;
- (d) be accorded the same privileges in respect of exchange facilities as are accorded to officials of comparable rank of diplomatic missions;
- (e) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as officials of comparable rank of diplomatic missions;
- (f) have the right to import free of duty their furniture and effects at the time of first taking up their posts in the country in question.

## 20.

The officials of the specialized agencies shall be exempt from national service obligations, provided that, in relation to the States of which they are nationals, such exemption shall be confined to officials to the specialized agencies whose names have, by reason of their duties, been placed upon a list compiled by the executive head of the specialized agency and approved by the State concerned.

Should other officials of specialized agencies be called up for national service, the State concerned shall, at the request of the specialized agency concerned, grant such temporary deferment in the call-up of such officials as may be necessary to avoid interruption in the continuation of essential work.

## 21.

In addition to the immunities and privileges specified in sections [19](#) and [20](#), the executive head of each specialized agency including any official acting on his behalf during his absence from duty, shall be accorded in respect of himself, his spouse and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

## 22.

Privileges and immunities are granted to officials in the interests of the specialized agencies only and not for personal benefit of the individuals themselves. Each specialized agency shall have the right and the duty to waive the immunity of any official in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the specialized agency.

## 23.

Each specialized agency shall co-operate at all times with the appropriate authorities of member States to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuses in connexion with the privileges, immunities and facilities mentioned in this Article.

## Article VII – Abuse of privilege

## 25.

1. Representatives of members at meetings convened by specialized agencies, while exercising their functions and during their journeys to and from the place of meeting, and officials within the meaning of [section 18](#), shall not be required by the territorial authorities to leave the country in which they are performing their functions on account of any activities by them in their official capacity. In the case, however, of abuse of privileges of residence committed by any such person

in activities in that country outside his official functions, he may be required to leave by the Government of that country provided that:

2. (I) Representatives of members, or persons who are entitled to diplomatic immunity under [section 21](#), shall not be required to leave the country otherwise than in accordance with the diplomatic procedure applicable to diplomatic envoys accredited to that country.
- (II) In the case of an official to whom [section 21](#) is not applicable, no order to leave the country shall be issued other than with the approval of the Foreign Minister of the Country in question, and such approval shall be given only after consultation with the executive head of the specialized agency concerned; and, if expulsion proceedings are taken against an official, the executive head of the specialized agency shall have the right to appear in such proceedings on behalf of the person against whom they are instituted.

### Article VIII – Laissez-passer

#### 26.

Officials of the specialized agencies shall be entitled to use the United Nations *laissez-passer* in conformity with administrative arrangements to be concluded between the Secretary-General of the United Nations and the competent authorities of the specialized agencies. Special powers to issue *laissez-passer* may be delegated. The Secretary-General of the United Nations shall notify each State party of this Convention of each administrative arrangements so concluded.

#### 28.

Applications for visas, where required, from officials of specialized agencies holding United Nations *laissez-passer*, when accompanied by a certificate that they are travelling on the business of a specialized agency, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

#### 29.

Similar facilities to those specified in [section 28](#) shall be accorded to experts and other persons who, though not the holder of United Nations *laissez-passer*, have a certificate that they are travelling on business of a specialized agency.

#### 30.

The executive heads, assistant executive heads, heads of departments and other officials of a rank not lower than head of department of the specialized agencies, travelling on United Nations *laissez-passer* on the business of the specialized agencies, shall be granted the same facilities for travel as accorded to officials of comparable rank in diplomatic missions.

### Fifth Schedule (Section 13)

#### Privileges and immunities of specified organizations and of representatives attending international conferences

##### Part 1 – Privileges and immunities of an organization

1. Immunity from suit and legal process.
2. The like inviolability of official archives and premises occupied as offices as is accorded in respect of the official archives and premises of an envoy of a foreign sovereign Power.

3. The like exemption or relief from taxes and rates, other than taxes on the importation of goods, as is accorded to a foreign sovereign Power.
4. Exemption from taxes on the importation of goods directly imported by the organization for its official use in Seychelles or for exportation, or on the importation of any publications of the organization directly imported by it, such exemption to be subject to compliance with such conditions as the Controller of Customs and Excise may prescribe for the protection of the Revenue.
5. Exemption from prohibitions and restrictions on importation or exportation in the case of goods directly imported or exported by the organization for its official use and in the case of any publications of the organization directly imported or exported by it.
6. The right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the press or for broadcasting (including communications addressed to or despatched from places outside Seychelles), of any reduced rates applicable for the corresponding service in the case of press telegrams.

### **Part II – Privileges and immunities of representatives, members or committees, high officers and persons on missions**

1. The like immunity from suit and legal process as is accorded to an envoy of a foreign sovereign Power.
2. The like inviolability of residence as is accorded to such an envoy.
3. The like exemption of relief from taxes as is accorded to such an envoy.

### **Part III – Privileges and immunities of other officers and servants**

1. Immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties.
2. Exemption from income tax in respect of emoluments received as an officer or servant of the organization.

### **Part IV – Privileges and immunities of official staffs of high officers' families**

1. Where any person is entitled to any such privileges and immunities as are mentioned in Part II of this Schedule as a representative to the organization or as a representative on, or member of, any organ of the organization or a member of any committee of the organization or of an organ thereof, his official staff accompanying him as such a representative or member shall also be entitled to those privileges and immunities to the same extent as the retinue of an envoy of a foreign sovereign Power.
2. Where any person is entitled to any such privileges and immunities as are mentioned in Part II of this Schedule as an officer of the organization, the members of that person's family forming part of his household shall also be entitled to those privileges and immunities to the same extent as the wife or husband or children of an envoy of a foreign sovereign Power accredited to Seychelles are entitled to the privileges and immunities accorded to the envoy.

## **Sixth Schedule (Section 15)**

### **Convention on Special Missions**

#### **Article 1 – Use of terms**

For the purposes of the present Convention—

- (a) a "special mission" is a temporary mission, representing the State, which is sent by one State to another State with the consent of the latter for the purpose of dealing with it on specific questions or of performing in relation to it a specific task;
- (b) a "permanent diplomatic mission" is a diplomatic mission within the meaning of the Vienna Convention on Diplomatic Relations;
- (c) a "consular post" is any consulate-general, consulate, vice-consulate or consular agency;
- (d) the "head of a special mission" is the person charged by the sending State with the duty of acting in that capacity;
- (e) a "representative of the sending State in the special Mission" is any person on whom the sending State has conferred that capacity;
- (f) the "members of a special mission" are the head of the special mission, the representatives of the sending State in the special mission and the members of the staff of the special mission;
- (g) the "members of the staff of the special mission" are the members of the diplomatic staff, the administrative and technical staff and the service staff of the special mission;
- (h) the "members of the diplomatic staff" are the members of the special mission who have diplomatic status for the purposes of the special mission;
- (i) the "members of the administrative and technical staff" are the members of the staff of the special mission employed in the administrative and technical service of the special mission;
- (j) the "members of the service staff" are the members of the staff of the special mission employed by it as household workers or for similar tasks;
- (k) the "private staff" are persons employed exclusively in the private service of the members of the special mission.

#### **Article 24 – Exemption of the premises of the special mission from taxation**

1. To the extent compatible with the nature and duration of the functions performed by the special mission, the sending State and the members of the special mission acting on behalf of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises occupied by the special mission, 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 with a member of the special mission.

#### **Article 25 – Inviolability of the premises**

1. The premises where the special mission is established in accordance with the present Convention shall be inviolable. The agents of the receiving State may not enter the said premises, except with the consent of the head of the special mission or, if appropriate, of the head of the permanent diplomatic mission

- of the sending State accredited to the receiving State. Such consent may be assumed in case of fire or other disaster that seriously endangers public safety, and only in the event that it has not been possible to obtain the express consent of the head of the special mission or, where appropriate, of the head of the permanent mission.
2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the special 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 special mission, their furnishings, other property used in the operation of the special mission and its means of transport shall be immune from search, requisition, attachment or execution.

### **Article 26 – Inviolability of archives and documents**

The archives and documents of the special mission shall be inviolable at all times and wherever they may be. They should when necessary, bear visible external marks of identification.

### **Article 28 – Freedom of communication**

1. The receiving State shall permit and protect free communication on the part of the special mission for all official purposes. In communicating with the Government of the sending State, its diplomatic missions, its consular posts and its other special missions or with sections of the same mission, wherever situated, the special mission may employ all appropriate means, including couriers and messages in code or cipher. However, the special mission may install and use a wireless transmitter only with the consent of the receiving State.
2. The official correspondence of the special mission shall be inviolable. Official correspondence means all correspondence relating to the special mission and its functions.
3. Where practicable, the special mission shall use the means of communication, including the bag and courier, of the permanent diplomatic mission of the sending State.
4. The bag of the special mission shall not be opened or detained.
5. The packages constituting the bag of the special mission must bear visible external marks of their character and may contain only documents or articles intended for the official use of the special mission.
6. The courier of the special mission, who shall be provided with an official document indicating his status and the number of packages constituting the 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.
7. The sending State or the special mission may designate couriers ad hoc of the special mission. In such cases the provisions of paragraph 6 of this article shall also apply, except that the immunities therein mentioned shall cease to apply when the courier ad hoc has delivered to the consignee the special mission's bag in his charge.
8. The bag of the special mission may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. The captain shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a courier of the special mission. By arrangement with the appropriate authorities the special mission 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 29 – Personal inviolability**

The persons of the representatives of the sending State in the special mission and of the members of its diplomatic staff shall be inviolable. They shall not be liable to any form of arrest or detention. The receiving State shall treat them with due respect and shall take all appropriate steps to prevent any attack on their persons, freedom or dignity.

### **Article 30 – Inviolability of the private accommodation**

1. The private accommodation of the representatives of the sending State in the special mission and of the members of its diplomatic staff shall enjoy the same inviolability and protection as the premises of the special mission.
2. Their papers, their correspondence and, except as provided in paragraph 4 of Article 31, their property shall likewise enjoy inviolability.

### **Article 31 – Immunity from jurisdiction**

1. The representatives of the sending State in the special mission and the members of its diplomatic staff shall enjoy immunity from the criminal jurisdiction of the receiving State.
2. They shall also enjoy immunity from the civil and administrative jurisdiction of the receiving State except in the case of—
  - (a) a real action relating to private immovable property situated in the territory of the receiving State, unless the person concerned holds it on behalf of the sending State for the purposes of the mission;
  - (b) an action relating to succession in which the person concerned 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 person concerned in the receiving State outside his official functions;
  - (d) an action for damages arising out of an accident caused by a vehicle used outside the official functions of the person concerned.
3. The representatives of the sending State in the special mission and the members of its diplomatic staff are not obliged to give evidence as witnesses.
4. No measures of execution may be taken in respect of a representative of the sending State in the special mission or a member of its diplomatic staff except in the cases coming under sub-paragraphs (a), (b), (c) and (d) of paragraph 2 of this article and provided that the measures concerned can be taken without infringing the inviolability of his person or his accommodation.
5. The immunity from jurisdiction of the representatives of the sending State in the special mission and of the members of its diplomatic staff does not exempt them from the jurisdiction of the sending State.

### **Article 32 – Exemption from social security legislation**

1. Subject to the provisions of paragraph 3 of this article, representatives of the sending State in the special mission and members of its diplomatic staff shall, in respect of service 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 persons who are in the sole private employ of a representative of the sending State in the special mission or of a member of its diplomatic staff, on condition—
  - (a) that such employed persons 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. Representatives of the sending State in the special mission and members of its diplomatic staff 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 where 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 agreement in the future.

### **Article 33 – Exemption from dues and taxes**

The representatives of the sending State in the special mission and the members of its diplomatic staff 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 the person concerned 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 Article 41;
- (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, subject to the provisions of Article 24.

### **Article 34 – Exemption from personal service**

The receiving State shall exempt the representatives of the sending State in the special mission and the members of its diplomatic staff 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 35 – Exemptions from customs duties and inspection**

1. Within the limits of such laws and regulations as it may adopt, the receiving State shall 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 special mission;
  - (b) articles for the official use of the representatives of the sending State in the special mission and the members of its diplomatic staff.
2. The personal baggage of the representatives of the sending State in the special mission and of the members of its diplomatic staff 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. In such cases, inspection shall be conducted only in the presence of the person concerned or of his authorized representatives.

### **Article 36 – Administrative and technical staff**

Members of the administrative and technical staff of the special mission shall enjoy the privileges and immunities specified in Articles 29 to 34, except that the immunity from civil and administrative jurisdiction of the receiving state specified in paragraph 2 of Article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges mentioned in paragraph 1 of Article 35 in respect of articles imported at the time of their first entry into the territory of the receiving State.

### **Article 37 – Service staff**

Members of the service staff of the special mission shall enjoy immunity from the jurisdiction of the receiving State 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 exemption from social security legislation as provided in Article 32.

### **Article 38 – Private staff**

Private staff of the members of the special mission shall be exempt from dues and taxes on the emoluments they receive by reason of their employment. In all other respects, they may enjoy privileges and immunities only to the extent permitted 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 special mission.

### **Article 39 – Members of the family**

1. Members of the families of representatives of the sending State in the special mission and the members of its diplomatic staff shall, if they accompany such members of the special mission, enjoy the privileges and immunities specified in Articles 29 to 35 provided that they are not nationals of or permanently resident in the receiving State.
2. Members of the families of members of the administrative and technical staff of the special mission shall, if they accompany such members of the special mission, enjoy the privileges and immunities specified in Article 36 provided that they are not nationals of or permanently resident in the receiving State.

### **Article 40 – Nationals of the receiving State and persons permanently resident in the receiving State**

1. Except insofar as additional privileges and immunities may be granted by the receiving State, the representatives of the sending State in the special mission and the members of its diplomatic staff who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and inviolability in respect of official acts performed in the exercise of their functions.
2. Other members of the special mission and private staff who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent granted to them by that 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 special missions.

### **Article 41 – Waiver of immunity**

1. The sending State may waive the immunity from jurisdiction of its representatives in the special mission, of the members of its diplomatic staff, and of other persons enjoying immunity under Articles 36 to 40.
2. Waiver must always be express.
3. The initiation of proceedings by any of the persons referred to in paragraph 1 of this Article 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 judgement, for which a separate waiver shall be necessary.



### **Article 42 – Transit through the territory of a third State**

1. If a representative of the sending State in the special mission or a member of its diplomatic staff passes through or is in the territory of a third State while proceeding to take up his functions or returning to the sending State, 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 person referred to in this paragraph, whether travelling with him 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 State shall not hinder the transit of members of the administrative and technical or service staff of the special mission, or 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 the receiving State is bound to accord under the present Convention. Subject to the provisions of paragraph 4 of this Article, they shall accord to the couriers and bags of the special mission in transit the same inviolability and protection as the receiving State is bound to accord under the present Convention.
4. The third State shall be bound to comply with its obligations in respect of the persons mentioned in paragraphs 1, 2 and 3 of this Article only if it has been informed in advance, either in the visa application or by notification, of the transit of those persons as members of the special mission, members of their families or couriers, and has raised no objection to it.
5. The obligations of third State under paragraphs 1, 2 and 3 of this Article shall also apply to th persons mentioned respectively in those paragraphs, and to the official communications and the bags of the special mission, when the use of the territory of the third State is due to *force majeure*.

### **Article 43 – Duration of privileges and immunities**

1. Every member of the special mission shall enjoy the privileges and immunities to which he is entitled from the moment he enters the territory of the receiving State for the purpose of performing his functions in the special mission or, if he is already in its territory, from the moment when his appointment is notified to the Ministry of Foreign Affairs or such other organ of the receiving State as may be agreed.
2. When the functions of a member of the special mission have come to an end, his privileges and immunities shall normally cease at the moment when he leaves the territory of the receiving State, or on the expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, in respect of acts performed by such a member in the exercise of his functions, immunity shall continue to subsist.
3. In the event of the death of a member of the special 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 territory of the receiving State.

### **Article 44 – Property of a member of the special mission or of a member of his family in the event of death**

1. In the event of the death of a member of the special mission or of a member of his family accompanying him, if the deceased was not a national of or permanently resident in the receiving State, 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.

2. Estate, succession and inheritance duties shall not be levied on movable property which is in the receiving State solely because of the presence there of the deceased as a member of the special mission or of the family of a member of the mission.