

CHAPTER 14.**DIPLOMATIC PRIVILEGES AND IMMUNITIES****Arrangement of Sections**

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An Act to specify diplomatic privileges and immunities and to give effect to the Vienna Convention on Diplomatic Relations.[Section numbering style modified to reflect new numbering format]

Commencement: November 28, 1988
Sources: P.L. 1988-31

§1401. Short Title.

This Act may be cited as the “Diplomatic Privileges and Immunities Act 1988”. [P.L. 1988-31, §1.]

§1402. Interpretation.

(1) In this Act, unless the context otherwise requires:

- (a) “Convention” means the Vienna Convention on Diplomatic Relations signed in 1961, a copy of the English text of which is set out in the First Schedule appearing at the end of this Act;
- (b) “Minister” means the Minister in charge of Foreign Affairs;
- (c) “mission” means a diplomatic mission of any State;
- (d) “organization” means any organization referred to in Section 1406 of this Act;
- (e) “State” means a foreign state.

(2) All expressions used in this Act and defined in Article I of the Convention have the same meanings as those given to them in the Convention. [P.L. 1988-31, §2.]

§1403. Effect of certain Articles of the Convention.

(1) Subject to the provisions of Subsection (5) of this Section, the provisions of Articles I, 2, 22 to 24 inclusive, and 27 to 47 inclusive, of the Convention shall have the force of law in the Marshall Islands.

(2) For the purpose of giving effect to any custom or agreement by which the Republic and any other State extend to each other treatment more favorable than is required by the provisions of the Convention, the Minister may from time to time, by order, declare that a mission of that State and persons connected with that mission shall be accorded such immunity from jurisdiction and inviolability, as are specified in the order; provided, that nothing in this Subsection shall apply with respect to whom Section 1404 of this Act, applies.

(3) In Subsection (2) of this Section, the expression “treatment more favorable” includes the according of privileges or immunities, as the case may be, to persons who under the convention may enjoy privileges and immunities only to the extent admitted by the receiving State.

(4) Where, by or by virtue of this Act, immunity from jurisdiction is accorded to persons who are not diplomatic agents or persons enjoying immunity under Article 37 of the Convention, the immunity accorded to those first-mentioned persons may be waived in the manner and subject to the conditions specified in Article 32 of the Convention and the waiver shall have the same consequences as a waiver under that Article.

(5) For the purposes of the provisions of the Articles referred to in Subsection (1):

(a) a reference in those provisions to the receiving State shall be construed as a reference to the Republic;

(b) a reference in those provisions to a national of the receiving State shall be construed as a reference to a Marshallese citizen;

(c) the reference in Article 32 to waiver by the sending State shall be construed as including a waiver by the head of the mission of the sending State or by a person for the time being performing the functions of the head of mission;

(d) Articles 35, 36 and 40 shall be construed as granting the privileges or immunities that those Articles require to be granted;

(e) the reference in paragraph I of Article 36 to such laws and regulations as the receiving State may adopt shall be construed as including reference to any law in force in the Republic relating to the quarantine, or the prohibition or restriction of the importation into or the exportation from the Republic of animals, plants, or goods; provided, that any immunity from jurisdiction that a person may possess or enjoy by virtue of Subsection (I) of this Section, shall not be prejudiced;

(f) the reference in paragraph 4 of Article 37 to the extent to which privileges and immunities are admitted by the receiving State, and the immunities that may be granted by the receiving State, shall, so far as they relate to immunities, be construed as may be conferred by an order under Subsection (3) of this Section;

(g) the reference in paragraph 2 of Article 38 to the extent to which privileges and immunities are admitted by the receiving State shall, so far as it relates to immunities, be construed, in relation to persons to whom Section 1404 of this Act applied, as a reference to immunities conferred by that Section, and, in relation to other persons to whom that Paragraph applies, as a reference to such immunities as may be conferred by an order under Subsection (2) of this Section. [P.L. 1988-31, §3.]

§1404. Marshallese residents and citizens.

The members of the administrative and technical staff, and members of the service staff, of a mission who are Marshallese citizens or are permanently resident in the Marshall Islands shall be accorded immunity from jurisdiction, and inviolability, only with respect to official acts performed in the exercise of their functions. [P.L. 1988-31, §4.]

§1405. Withdrawal of diplomatic privileges and immunities.

Where the Minister is satisfied that the privileges and immunities accorded in relation to a mission of the Republic in any State, or to persons connected with that mission, are less than those conferred by or by virtue of this Act in relation to the mission of that State or to persons connected with that mission, he may, by order, withdraw, modify or restrict, in relation to that mission or to persons connected with that mission, such of the privileges and immunities so conferred to such extent as appears to him to be proper. [P.L. 1988-31, §5.]

§1406. International Organizations.

(1) This Section shall apply to any organization declared by the Minister by order, to be an organization of which two or more States or the Governments thereof are members.

(2) The Minister may from time to time, by order:

(a) provide that any organization to which this Section applies shall, to such extent as may be specified in the order, have the privileges and immunities specified in the Second Schedule appearing at the end of this Act, and shall also have the legal capacities of a body corporate;

(b) confer upon:

(i) any persons who are representatives (whether of Government or not) of any organ of the organization or at any conference convened by the organization or are members of any committee of the organization or of any organ thereof;

(ii) such officers or classes of officers of the organization as are specified in the order, being the holders of such high offices in the organization as are so specified; or

(iii) such persons employed on missions on behalf of the organization as are specified in the order, to such extent as may be specified in the order, the privileges and immunities specified in the Third Schedule appearing at the end of this Act; and

(c) confer upon such other classes of officers and servants of the organization as are specified in the order, to such extent as may be so specified, the privileges and immunities specified in the Fourth Schedule appearing at the end of this Act.

(3) The Fifth Schedule appearing at the end of this Act shall have effect for the purpose of extending to the staffs of such representatives and members as are mentioned in Subsection (2)(b)(i) and to the members of the families forming part of the household of officers of the organization any privileges and immunities conferred on the representatives, members, or officers under that paragraph, except in so far as the operation of the Fifth Schedule is excluded by the order conferring the privileges and immunities: provided, that no order made under the provisions of this Subsection shall confer any privilege or immunity upon any person as the representative of the Government of the Marshall Islands a member of the staff of such a representative. [P.L. 1988-31, §6.]

§1407. Members of international organizations employed by Government.

(1) Whenever the services of any person are provided for appointment to the public service of the Republic pursuant to an agreement between any of the international organizations specified in the Sixth Schedule appearing at the end of this Act and the Government of the Marshall Islands, it shall be lawful for the Minister by order to confer upon any such person to such extent as may be specified therein the immunities and privileges set out in the Seventh Schedule appearing at the end of this Act.

(2) Every order made under the provisions of Subsection (1) of this Section, shall state the date from which the immunities and privileges thereby conferred shall take effect.

(3) Whenever any person ceases to be entitled to the immunities and privileges conferred by any order made under this Act the Minister shall make an order to that effect.

(4) The Minister may at any time by order add to, vary or delete the whole or any part of the Sixth Schedule with effect from the date specified in such notice.

(5) The fact that any person is or was entitled or not entitled to any of the immunities or privileges set out in the Seventh Schedule may be conclusively proved by producing the relevant order. [P.L. 1988-31, §7.]

§1408. Persons employed on duties within the Republic.

(1) Whenever the services of any person are provided by a State, an organization, or by an agency, by whatever name called, sponsored by a State or organization, for duties within the Marshall Islands approved by the Minister, and such person is not entitled to immunities and privileges under the provisions of either Section 1406 or Section 1407 of this Act, the Minister may by order either:

(a) declare the members of any such organization or agency specified in the order to be persons who shall be entitled to the immunities and privileges set out in the Eighth Schedule appearing at the end of this Act; or

(b) confer upon any such person such of the immunities and privileges set out in the Eighth Schedule as may be specified in the order.

(2) Every order made under the provisions of Subsection (1)(b) of this Section, shall state the date from which immunities and privileges thereby conferred shall take effect.

(3) Whenever any person ceases to be entitled to the immunities and privileges conferred by any order made under the provisions of Subsection (1)(b) of this Section, the Minister shall cause a notice to that effect to be published in the Gazette.

(4) The fact that any person is or was entitled or not entitled to any of the immunities or privileges set out in the Eighth Schedule may be conclusively proved by producing the Gazette containing the relevant order or notice, whichever is the case. [P.L. 1988-31, §8.]

§1409. International Court of Justice.

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

the United Nations. [P.L. 1988-31, §9.]

§1410. International conferences.

Where a conference is held in the Republic and is attended by representatives of the Government of the Marshall Islands and the Government or Governments of one or more States or of any of the territories for whose international relations any of those Governments is responsible, and it appears to the Minister that doubts may arise as to the extent to which the representatives of those Governments (other than the Government of the Marshall Islands) and members of their official staffs are entitled to privileges and immunities, the Minister may, by notice in the Gazette, direct that every representative of any such Government (other than the Government of the Marshall Islands) shall be accorded such of the privileges and immunities conferred by or by virtue of Sections 1403 and 1404 of this Act, on a diplomatic agent as the Minister specifies, and that such of the members of his official staff as the Minister may direct shall be accorded such of the privileges and immunities conferred by virtue of Sections 1403 and 1404 of this Act, on members of the diplomatic staff or the administrative and technical staff of a diplomatic mission as the Minister specifies. [P.L. 1988-31, §10.]

§1411. Reciprocal treatment.

Nothing in this Act shall be construed as precluding the Minister from declining to accord privileges or immunities to, or from withdrawing, modifying, or restricting privileges or immunities in relation to, nationals or representatives of any State, or the Government thereof, on the ground that such State, or the Government thereof, is failing to accord corresponding privileges or immunities to the Marshall Islands. [P.L. 1988-31, §11.]

§1412. Exemption from taxation.

(1) Notwithstanding anything to the contrary in any Act, the Minister, with the concurrence of the Minister responsible for Finance, may from time to time wholly or partly exempt from any public or local tax, duty, rate, levy, or fee any of the following Governments or persons:

(a) the Government of any State or the Government of any territory for whose international relations the Government of any such State is responsible or any office or organization forming part of, or sponsored by, any such Government;

(b) a representative or officer of the Government of any country other than the Marshall Islands or of any provisional Government, national committee, international organization or other authority recognized by the Republic, if he is temporarily resident in the Marshall Islands in accordance with any arrangement made with the Government of the Marshall Islands;

(c) a member of the official or domestic staff, or a spouse or dependent child, of any person to whom Paragraph (b) of this Subsection applies.

(2) Subject to the provisions of any international convention, treaty or arrangement to which the Republic is a party, where a person who is a member of the official or domestic staff of a person to whom paragraph (b) of Subsection (1)(b) of this Section applies is a Marshallese citizen and not a citizen of the country concerned, or is not resident in the Marshall Islands solely for the purpose of performing his duties as such a member, that person shall not, and the spouse and dependent children of that person shall not by reason only of their being a member of his family, be entitled

to any exemption granted under Subsection (1) of this Section. [P.L. 1988-31, §12.]

§1413. General exemptions.

(1) The powers conferred on the Minister by Sections 1406, 1407 and 1412 of this Act shall be deemed to include power to exempt from any fee or duty under any Act, any instrument or class of instruments to which any organization, government, or person, as the case may be to which or to whom the order or exemption applies is a party.

(2) The powers conferred on the Minister by Section 1412 of this Act, shall be deemed to include power on the death of any person referred to in Subsection (1)(b) or (c) of Section 1412 of this Act, to exempt any instrument or document or class of instrument or documents made for or relating to the appointment of an executor or administrator in the estate of that person, or to the administration or distribution of the estate from any fee or duty under any Act.

(3) Any exemption granted by the Minister under Section 1412 of this Act, may be granted either unconditionally or subject to such conditions as the Minister thinks fit, and the Minister may at any time revoke any such exemption or revoke, vary, or add to any such conditions.

(4) Notwithstanding the provisions of any exemption referred to in Subsection (3), any question arising as to the nature or extent of any such exemption, or to the governments or persons entitled to any such exemption, shall be referred to and be determined by the Minister. The decision of the Minister shall not be liable to be challenged, reviewed, quashed or called in question in any court. [P.L. 1988-31, §13.]

§1414. Refunds of payments.

Where any loss is suffered by any local authority, public body, or person by reason of giving effect to any fiscal privilege accorded pursuant to Section 1403 of this Act, or to any exemption granted under Sections 1406, 1408,1409, or 1410 of this Act, the Minister responsible for Finance may, with the approval of the Cabinet, direct that such payments be made from the General Fund to reimburse that loss. [P.L. 1988-31, §14.]

§1415. Certificate of Minister.

If, in any proceedings, any question arises whether or not any person or any organization is or was at any time or ,with respect to any period, accorded any privilege or immunity under or by virtue of this Act, a certificate issued by the Minister stating any fact relevant to that question shall be conclusive evidence of that fact. [P.L. 1988-31, §15.]

§1416. Saving.

This Act shall affect any legal proceedings begun before the commencement of this Act. [P.L. 1988-31, §16.]

§1417. Regulations.

The Minister may make regulations for such matters as are contemplated by or necessary for giving full affect to this Act and for the due administration thereof. [P.L. 1988-31, §17.]

FIRST SCHEDULE**Reference Section:
1402(1)(a), Diplomatic Privileges and Immunities Act 1988****THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS**

RECALLING that peoples of all nations from ancient times have recognized the status of diplomatic agents.
HAVING IN MIND the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations.

BELIEVING that an international convention on diplomatic intercourse, privileges and immunities would contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems.

REALIZING that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States.

AFFIRMING that the rules of customary international law should continue to govern questions not expressly regulated by the provisions of the present Convention.

HAVE AGREED as follows:

ARTICLE 1

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

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

ARTICLE 2

The establishment of diplomatic relations between States, and of permanent diplomatic missions, takes place by mutual consent.

ARTICLE 3

- (1) The functions of a diplomatic mission consist inter alia in:
 - (a) representing the sending State in the receiving State;
 - (b) protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
 - (c) negotiating with the Government of the receiving State;
 - (d) ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the government of the sending State;
 - (e) promoting friendly relations between the sending State and the receiving State, and developing their economic cultural and scientific relations.
- (2) Nothing in the present Convention shall be construed as preventing the performance of consular functions

by a diplomatic mission.

ARTICLE 4

(1) The sending State must make certain that the agreement of the receiving State has been given for the person it proposes to accredit as head of the mission to that State.

(2) The receiving State is not obliged to give reasons to the sending State for a refusal of agreement.

ARTICLE 5

(1) The sending State may, after it has given due notification to the receiving States concerned, accredit a head of mission or assign any member of the diplomatic staff, as the case may be, to more than one State, unless there is express objection by any of the receiving States.

(2) If the sending State accredits a head of mission to one or more other States it may establish a diplomatic mission headed by a charge' d'affaires ad interim in each State where the head of mission has not his permanent seat.

(3) A head of mission or any member of the diplomatic staff of the mission may act as representative of the sending State to any international organization.

ARTICLE 6

Two or more States may accredit the same person as head of mission of another State, unless objection is offered by the receiving State.

ARTICLE 7

Subject to the provisions of Articles 5, 8, 9 and 11, the sending State may freely appoint the members of the staff of the mission. In the case of military, naval or air attaches, the receiving State may require their names to be submitted beforehand, for its approval.

ARTICLE 8

(1) Members of the diplomatic staff of the mission should in principle be of the nationality of the sending State.

(2) Members of the diplomatic staff of the mission may not be appointed from among persons having the nationality of the receiving State, except with the consent of that State which may be withdrawn at any time.

(3) The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

ARTICLE 9

(1) The receiving State may at any time and without having to explain its decision, notify the sending State that the head of the mission or any member of the diplomatic staff of the mission is *persona non grata* or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission. A person may be declared *non grata* or not acceptable before arriving in the territory of the receiving State.

(2) If the sending State refuses or fails within a reasonable period to carry out its obligations under Paragraph I of this Article, the receiving State may refuse to recognize the person concerned as a member of the mission

ARTICLE 10

(1) The Ministry for Foreign Affairs of the receiving State, or such other ministry as may be agreed, shall be notified of:

(a) the appointment of members of the mission, their arrival and their final departure or the termination of their functions with the mission;

(b) the arrival and final departure of a person belonging to the family of a member of the mission and, where appropriate, the fact that a person becomes or ceases to be a member of the family of a member of the mission;

(c) the arrival and final departure of private servants in the employ of persons referred to in Subparagraph (a) of this Paragraph and, where appropriate, the fact that they are leaving the employ of such persons;

(d) the engagement and discharge of persons resident in the receiving State as members of the mission or private servants entitled to privileges and immunities.

(2) Where possible, prior notification of arrival and final departure shall also be given.

ARTICLE 11

(1) In the absence of specific agreement as to the size of the mission, the receiving State may require that the size of a mission be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the receiving State and to the needs of the particular mission.

(2) The receiving State may equally, within similar bounds and on a non-discriminatory basis, refuse to accept officials of a particular category.

ARTICLE 12

The sending State may not, without the prior express consent of the receiving State, establish offices forming part of the mission in localities other than those in which the mission itself is established.

ARTICLE 13

(1) The head of the mission is considered as having taken up his functions in the receiving State either when he has presented his credentials or when he has notified his arrival and a true copy of his credentials has been presented to the Ministry for Foreign Affairs of the receiving State, or such other ministry as may be agreed, in accordance with the practice prevailing in the receiving State which shall be applied in a uniform manner.

(2) The order of presentation of credentials or of a true copy thereof will be determined by the date and time of the arrival of the head of the mission.

ARTICLE 14

(1) Heads of mission are divided into three classes, namely:

(a) that of ambassadors or nuncios accredited to Heads of State, and other heads of mission of equivalent rank;

(b) that of envoys, ministers and internuncios accredited to Heads of State;

(c) that of charge' d'affaires accredited to Ministers for Foreign Affairs.

(2) Except as concerns precedence and etiquette, there shall be no differentiation between heads of mission by reason of their class.

ARTICLE 15

The class to which the heads of their missions are to be assigned shall be agreed between States.

ARTICLE 16

(1) Heads of mission shall take precedence in their respective classes in the order of the date and time of taking up their functions in accordance with Article 13.

(2) Alterations in the credentials of a head of mission not involving any change of class shall not affect his precedence.

ARTICLE 17

The precedence of the members of the diplomatic staff of the mission shall be notified by the head of the mission to the Ministry for Foreign Affairs or such other ministry as may be agreed.

ARTICLE 18

The procedure to be observed in each State for the reception of heads of mission shall be uniform in respect of each class.

ARTICLE 19

(1) If the post of head of the mission is vacant, or if the head of the mission is unable to perform his functions, a charge' d'affaires ad interim shall act provisionally as head of the mission. The name of the charge' d'affaires ad interim shall be notified, either by the head of the mission or, in case he is unable to do so, by the Ministry for Foreign Affairs of the sending State to the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

(2) In cases where no member of the diplomatic staff of the mission is present in the receiving State, a member

of the administrative and technical staff may, with the consent of the receiving State, be designated by the sending State to be in charge of the current administrative affairs of the mission.

ARTICLE 20

The mission and its head shall have the right to use the flag and emblem of the sending State on the premises of the mission, including the residence of the head of the mission, and his means of transport.

ARTICLE 21

- (1) The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its mission or assist the latter in obtaining accommodation in some other way.
- (2) It shall also, where necessary, assist the mission in obtaining suitable accommodation for their members.

ARTICLE 22

- (1) The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
- (2) The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.
- (3) The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

ARTICLE 23

- (1) The sending State and the head of the mission shall be exempt from national, regional and 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 25

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

ARTICLE 26

Subject to its laws and regulations concerning Zones entry into which is prohibited or regulated for reasons of natural security, the receiving State shall ensure to all members of the mission freedom of movement and travel in its territory.

ARTICLE 27

- (1) The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and the other mission 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) The diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

ARTICLE 28

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

ARTICLE 29

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

ARTICLE 30

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

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

ARTICLE 31

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

(a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;

(b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

(c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions,

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

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

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

ARTICLE 32

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

(2) Waiver must always be express.

(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 judgment. for which a separate waiver shall be necessary.

ARTICLE 33

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

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

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

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

(3) A diplomatic agent who employs persons to whom the exemption provided for in Paragraph 2 of this Article does not apply shall observe the obligations which the social security

provisions of the receiving State impose upon employers.

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

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

ARTICLE 34

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

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

ARTICLE 35

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

ARTICLE 36

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

- (a) articles for the official use of the mission;
- (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 I of this Article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his authorized representative.

ARTICLE 37

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

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

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

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

performance of the functions of the mission.

ARTICLE 38

(1) Except insofar 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 acts 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 case of the death of a member of the mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.

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

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

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

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

ARTICLE 41

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

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

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

ARTICLE 42

A diplomatic agent shall not in the receiving State practice for personal profit any professional or commercial activity.

ARTICLE 43

The function of a diplomatic agent comes to an end, inter alia:

(a) on notification by the sending State to the receiving State that the function of the diplomatic agent has come to an end;

(b) on notification by the receiving State to the sending State that, in accordance with paragraph 2 of Article 9, it refuses to recognize the diplomatic agent as a member of the mission.

ARTICLE 44

The receiving State must, even in case of armed conflict, grant facilities in order to enable persons enjoying privileges and immunities, other than nationals of the receiving State, and members of the families of such persons irrespective of their nationality, to leave at the earliest possible moment. It must, in particular, in case of need, place at their disposal the necessary means of transport for themselves and their property.

ARTICLE 45

If diplomatic relations are broken off between two States, or if a mission is permanently or temporarily recalled:

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

(b) the sending State may entrust the custody of the premises of the mission, together with its property and archives, to a third State acceptable to the receiving State;

(c) the sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

ARTICLE 46

A sending State may with the prior consent of a receiving State, and at the request of a third State not represented in the receiving State, undertake the temporary protection of the interests of the third State and of its nationals.

ARTICLE 47

(1) In the application of the provisions of the present Convention, the receiving State shall not discriminate as between States.

(2) However, discrimination shall not be regarded as taking place:

(a) where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its mission in the sending State;

(b) where by custom or agreement States extend to each other more favorable treatment than is required by the provisions of the present Convention.

ARTICLE 48

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows: until 31 October, 1961, at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March, 1962, at the United Nations Headquarters in New York.

ARTICLE 49

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE 50

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in Article 48. The instruments of accession shall be deposited with the Secretary-General of the United

Nations.

ARTICLE 51

(1) The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

(2) For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

ARTICLE 52

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in Article 48:

(a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with Articles 48, 49 and 50;

(b) of the date on which the present Convention will enter into force, in accordance with Article 51.

ARTICLE 53

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in Article 48.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE AT VIENNA, the eighteenth day of April one thousand nine hundred and sixty-one.

SECOND SCHEDULE

Reference Section:

1406(2)(a). Diplomatic Privileges and Immunities Act 1988

Privileges and Immunities of International Organizations:

- (1) Immunity from suit and legal process.
- (2) The like inviolability of official premises and archives as is accorded in respect of the official premises and archives of a diplomatic mission.
- (3) Immunity in relation to its property and assets, wherever located and by whomsoever held, from search, requisition, confiscation, expropriation, or any other form of interference.
- (4) The like exemption from taxes and rates, other than taxes on the importation of goods, as is accorded to the Government of any foreign State.
- (5) Exemption from taxes on the importation of goods directly imported by the organization for its official use in the Marshall Islands or for exportation. or on the importation of any publications of the organization directly imported by it, subject to compliance with such conditions as the Minister responsible for finance may determine for the protection of the revenue.
- (6) 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, subject to compliance with such conditions as the Minister responsible for finance may determine for the protection of the public health, the prevention of diseases in plants and animals, and otherwise in the public interest.
- (7) 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 the Republic of the Marshall Islands), of any reduced rates applicable for the corresponding service in the case of press telegrams.

THIRD SCHEDULE

Reference Section:**1406(2)(b), Diplomatic Privileges and Immunities Act 1988****Privileges and Immunities of Representatives, Members of Committees, High Officers, and Persons on Missions:**

- (1) The like immunity from suit and legal process as is accorded to a diplomatic agent.
- (2) The like inviolability of residence, official premises, and official archives as is accorded to a diplomatic agent.
- (3) The like exemption from taxes and rates as is accorded to a diplomatic agent.

FOURTH SCHEDULE**Reference Section:****1406(2)(c), Diplomatic Privileges and Immunities Act 1988****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 taxes in respect of emoluments received as an officer or servant of the organization.
- (3) Exemption from taxes on the importation of furniture and effects imported at the time of first taking up post in the Republic of the Marshall Islands, that exemption to be subject to compliance with such conditions as the Minister responsible for finance may determine for the protection of the revenue.

FIFTH SCHEDULE**Reference Section:****1406(3), Diplomatic Privileges and Immunities Act 1988****Privileges and Immunities of Official Staff and of High Officers' Families:**

- (1) Where any person is accorded any such immunities and privileges as are mentioned in the Third Schedule to this Act as the representative on any organ of the organization or a member of any committee of the organization or of an organ thereof, the members of his official staff accompanying him as such a representative or member shall also be accorded those immunities and privileges to the same extent as the members of the staff of a mission are accorded the immunities and privileges accorded to a diplomatic agent.
- (2) Where any person is accorded any such privileges and immunities as are mentioned in the Third Schedule to this Act as an officer of the organization, the members of the family of that person who form part of his household shall also be accorded those privileges and immunities to the same extent as the members of the family of a diplomatic agent who form part of his household are accorded the privileges and immunities accorded to that diplomatic agent.

SIXTH SCHEDULE**Reference Section:****1407(1); 1407(4), Diplomatic Privileges and Immunities Act 1988****International Organizations:**

The United Nations.
 The International Labour Organization.
 The Food and Agriculture Organization of the United Nations.
 The United Nations Educational, Scientific and Cultural Organization.
 The International Civil Aviation Organization.

The World Health Organization.
 The International Telecommunications Union.
 The World Meteorological Organization.
 The International Atomic Energy Agency.
 The Universal Postal Union.
 The United Nations Industrial Development Organization.
 The United Nations Conference on Trade and Development.
 The Inter-Governmental Maritime Consultative Organization.
 The International Monetary Fund
 The International Bank for Reconstruction and Development.
 The International Refugee Organization.
 The International Finance Corporation.
 The Asian Development Bank.
 The Commonwealth Secretariat.
 The International Court of Justice.
 The South Pacific Commission.
 The United Nations Office of Technical Co-Operation.
 The United Nations Development Programme.
 The International Development Association.
 The Commission of the European Communities.

SEVENTH SCHEDULE

Reference Section:

1407(1); 1407(5). Diplomatic Privileges and Immunities Act 1988.

Immunities and Privileges:

- (1) Immunity from suit and legal process in respect of words spoken or written and all acts performed in his official capacity.
- (2) Exemption from taxation on all stipend, emoluments and allowances paid to him by the international organization.

EIGHTH SCHEDULE

Reference Section:

1408(1); 1408(4), Diplomatic Privileges and Immunities Act 1988

Privileges and Immunities of a Person Referred to in Section 8 and His Family.

- (1) Exemption from taxation on all stipends, emoluments and allowances paid to such person in connection with his duties in the Republic of the Marshall Islands.
- (2) Exemption from taxes on the importation of professional and technical equipment used by such person in connection with his duties in the Republic of the Marshall Islands and on the importation of furniture and effects, including one motor vehicle, of such person and his family imported within six months from the time of first taking up post in the Republic of the Marshall kinds that exemption to be subject to compliance with such conditions as the Minister responsible for finance may determine for the protection of the revenue.

