A STUDY OF THE CONSULAR CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE PEOPLE’S REPUBLIC OF CHINA

Stephen Kho

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Stephen Kho*

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I. INTRODUCTION

On September 17, 1980, the Consular Convention between the
United States of America and the People’s Republic of China
(hereinafter referred to as the “U.S.-China Consular Convention”)¹
was signed in Washington D.C. This convention marked the conclu-
sion of the normalization process between the United States and
the People’s Republic of China (hereinafter referred to as either
the “PRC” or “China”).

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¹ United States Treaties and Other International Agreements (hereinafter referred
to as UST), Vol. 33, TIAS 10209, p. 2973. The Convention was entered into force on
February 19, 1982.
In addition to concluding the U.S.-China Consular Convention, the United States also ratified, and the PRC acceded to, the Vienna Convention on Consular Relations (hereinafter referred to as the “Vienna Convention”). By theory, being parties to both these instruments helps the two nations to ensure that mutual consular privileges and rights are granted. But why did two countries seeking full diplomatic relations need to conclude two separate consular conventions?

This paper will first briefly discuss the historical, political and economic reasons for concluding a bilateral consular treaty between the United States and the PRC, as well as the concerns involved. Then, the paper will analyze the text of the U.S.-China Consular Convention, comparing it with the multilateral Vienna Convention, and discuss the reasons as to why the two States are parties to both consular conventions. It will also analyze China’s national legislation and policy with respect to affording foreign consuls certain privileges and immunities. Finally, the paper will document the practical effectiveness of the U.S.-China Consular Convention, looking at how United States nationals are protected, if at all, under this important instrument, and discuss whether it was even necessary to conclude such a bilateral convention.

II. THE PURPOSE AND NEED FOR THE U.S.-CHINA CONSULAR CONVENTION

After the Communists’ takeover of mainland China in 1949, relations between the United States and the PRC deteriorated quickly. Because of the U.S. support of the Nationalist government, which relocated to Taiwan, the Communist regime acted swiftly to deprive the United States of all its consular rights within China by arresting consular officials, seizing consular property and refusing exit visas. In addition to this, the Communists also detained a number of U.S. citizens in China illegally, while expelling the rest of the Americans from their territory.


As time went on, the United States slowly began to realize the full potential of the PRC, both economically and politically. The need to normalize relations once again between the two countries soon became evident. The Nixon Administration eventually opened the doors to the near-total isolated China in the early 1970s, and from that time on, the process of normalization progressed rapidly.

In the past, when China did not have full diplomatic relations with a certain foreign government, it had a tendency to recognize only limited privileges and immunities for representatives and nationals of that particular country. Presently in the PRC, the power to enact laws governing the rights of foreigners is implicitly vested in the National People’s Congress through the Constitution of 1982. However, prior to 1980, there was no single unified national legislation on the rights and duties of foreign nations in China. Thus, foreign governments had to resort to the many individual Chinese legislative enactments in order to determine how their nationals would be treated on Chinese soil. In principle, at least, foreign nationals expected to have rights and obligations under Chinese law that were similar to those of Chinese citizens. Unfortunately, for every legislation enacted, there were also many exceptions.

Because of the uncertainty of consular rights, there was a definite need for the United States and China to establish full consular and diplomatic relations through a bilateral treaty, as part of the normalization process. The two governments soon began work on, among other things, a detailed, comprehensive consular instrument.

Diplomatic relations between the two countries were officially established on January 1, 1979, and on January 31, 1979, the Agreement between the United States of America and the People’s

8. Id., p. 142.
Republic of China on the mutual Establishment of Consular Relations and the Opening of Consulates General was signed. This Agreement allows the United States and China to immediately open two consulates in each of their respective territories.

An interim agreement was attached to the Agreement above, i.e., the Annex on Practical Arrangements (hereinafter referred to as the "Annex"), in which the two governments promised to expand their consular relations and to negotiate a more permanent consular instrument at a future date. This later, more detailed consular convention would then better protect and preserve the rights and privileges of nationals as they travel, reside, or conduct business within each other’s respective territories. It also would greatly facilitate the ability of American and Chinese consuls to extend assistance to their fellow nationals, as well as to contribute substantially to the growth of travel and commerce between the two countries. However, in order to achieve this goal, the governments felt that more time was needed for China and the United States to actively negotiate a treaty which will put [the two countries'] consular relations on a firm and permanent footing.

Soon after relations were normalized, more and more Americans began to enter China. For example, there were approximately 7,000 American tourists visiting China in 1980 alone. Also, as of March 1981, there were 793 Americans registered at the American Embassy in Beijing as residents of China; these included 209 U.S. Government employees and dependents. Concurrently, many Chinese nationals came to the United States during this time. As of 1981, there were approximately 6,000 Chinese students, scholars and researchers in the U.S. Also, in 1980 alone, about 6,500 business visas were issued to Chinese citizens for entry into the United States. In addition to this, China permitted increased traveling abroad by Chinese private citizens, mostly to visit their overseas

10. UST, supra note 1, Vol. 30, TIAS 9177, p. 17. This agreement was entered into force on January 31, 1979.
12. Senate Hearings, supra note 9, p. 2.
13. Ibid.
14. Immediately after the establishment of diplomatic relations on January 1, 1979, China adopted a policy of encouraging travel by foreign tourists. See Senate Hearings, supra note 9, p. 3.
15. Id., p. 3.
16. Id., p. 2.
relatives, and facilitated emigration by Chinese citizens to the United States.\textsuperscript{17}

Trade also expanded extensively between China and the U.S. after 1979. America exported agricultural products, machinery, technological items, and Boeing aircrafts to China.\textsuperscript{18} The PRC, in return, exported various raw materials and textiles to the United States.\textsuperscript{19} In fact, China, in 1980, had already exported a total of $1.1 billion into the United States, while it imported $3.8 billion from the United States. These figures, at that time, made China the third largest export market in Asia for the U.S., and the eighth largest export market worldwide.\textsuperscript{20} Aside from strengthening their economic ties, the two countries also broadened their cooperation in science and technology,\textsuperscript{21} and the use of both personal and commercial contracts expanded rapidly.

From the statistics above, one can see why it was necessary for both China and the U.S. to sign a consular treaty to be used as guiding rules for providing consular protection to their nationals. This was particularly true for the United States, because at the time China had yet to sign the Vienna Convention on Consular Relations, which was an attempt by the international community to codify consular relations.\textsuperscript{22} However, prior to the final conclusion of the U.S.-China Consular Convention (which replaced the temporary Annex), China did in fact sign the Vienna Convention, thus making this concern obsolete.\textsuperscript{23} Questions still remain, though, regarding the status of the Vienna Convention and how it relates to the later U.S.-China bilateral consular convention. This issue will be discussed in detail in the next section of this paper.

On September 17, 1980, President Carter and Chinese Vice Premier Bo Yibo finally signed the U.S.-China Consular Conven-

\begin{flushleft}
\textsuperscript{17} Ibid.
\textsuperscript{18} \textit{Id.}, p. 9.
\textsuperscript{19} Ibid.
\textsuperscript{20} \textit{Id.}, p. 3.
\end{flushleft}
tion, which fulfilled the promise of the United States and China in the Annex to establish a more permanent consular treaty between the two countries.24 This bilateral convention spelled out the duties of consular officers to provide services to citizens of both countries, as well as insured the protection of nationals traveling abroad.25 It laid the groundwork for building broader relations between the two countries, and, as mentioned earlier, completed the process of normalizing relations.26 It was the most comprehensive treaty ever concluded by the PRC with another country up to that point in time, particularly in the field of consular relations.27

III. THE TEXT OF THE CONSULAR CONVENTION

A. General Overview

The provisions of the U.S.-China Consular Convention are very similar to the many consular conventions which the United States has entered into with other countries.28 After its signing on September 17, 1980, the Convention received the advice and consent of the Senate for ratification on December 11, 1981.29 The PRC ratified this instrument on January 26, 1981, and President Reagan ratified it on January 4, 1982. It finally entered into force on February 19, 1982, upon the exchange of the instruments of ratification on January 19, 1982.30

24. *ILM*, supra note 21, Vol. 19 (1980), p. 1105. The Convention was concluded along with three other agreements: Agreement on Civil Air Transport (providing regularly scheduled, direct flights between the U.S. and China), Agreement on Textiles (permitting orderly marketing in America of Chinese textile products), and Agreement on Maritime Transport (opening both U.S. and Chinese sea ports to each other for the first time in 30 years).


27. *Senate Hearings*, supra note 9, p. 2. The PRC did conclude several consular treaties with other nations prior to 1979. For example, a consular treaty was concluded with Sweden on June 24, 1955, and another one was concluded with the former Soviet Union on June 23, 1959. See Cohen and Chiu, *People's China and International Law*, Vol. 2, supra note 3, pp. 1059-1067.


The specific consular functions and services which are assured on a reciprocal basis in the bilateral consular convention include the issuance of passports and visas, the performance of notarial services, and the representation of the interests of nationals in estate matters. Also, the convention guarantees that consuls will receive prompt notification of arrests of their nationals and will have the right to visit regularly with these nationals and to attend their trials. Other provisions include the establishment of consular posts, the appointment of personnel, the inviolability and immunity of consular officers and employees, and the representation of the interests of nationals with respect to vessels and aircrafts. Generally speaking, this bilateral instrument deals more with the criminal and procedural protections of consular members and foreign nationals, and less with the issue of privileges and immunities.

B. The Text in Detail

Article 1 of the U.S.-China Consular Convention contains the definitions needed for the interpretation and understanding of this instrument, while Articles 2 through 7 provide for the establishment of consular posts, the appointment of officers and employees of such posts, and the procedures for terminating their activities. Articles 8 and 9 deal with the acquisition of consular premises and the use of the national flag, respectively. Article 10 provides for the inviolability of these consular premises and the residences of consular officers. Article 11 then provides for the inviolability of the consular archives, while Article 12 ensures the freedom of communication between a consulate and its sending government.

Under Article 13, consular officers and employees, and members of their families, are entitled to personal inviolability and immunity from civil and administrative jurisdiction of the receiving State, with certain stated exceptions relating to non-official activities. This article also entitles such persons to immunity and personal inviolability from criminal jurisdiction. However, under Article 21, these immunities are not available to consular officers, consular employees, or members of their families if they are nation-

31. Senate Hearings, supra note 9, p. 3.
32. UST, supra note 1, Vol. 33, pp. 2976-2982. Also see Leich, Digest of U.S. Practice, supra note 29, p. 381.
33. UST, supra note 1, Vol. 33, p. 2983.
34. Id., pp. 2984-2985.
35. Id., pp. 2986-2987.
als or permanent residents of the receiving State.\textsuperscript{36} If immunity is in fact provided, Article 14 allows for the members of the consulate to waive this immunity, if they so desire.\textsuperscript{37} Articles 15 through 19 continue by providing for the exemption of consular officers, employees, and members of their families from military or compulsory services, property tax, personal tax, customs duties and inspection.\textsuperscript{38} These articles combine to afford U.S. consular representatives in China the protection that other receiving States have afforded them in the past, as well as to offer PRC consular representatives the same treatment as those provided by the United States to other countries.\textsuperscript{39}

Following these sections on consular immunities and exemptions, Article 20 considers the subject of the freedom of movement. This provision states that consulate members and their families may travel about freely within the receiving State's territories, except for entry into restricted areas, which are limited for national security reasons.\textsuperscript{40} This has been interpreted to mean that Chinese nationals who enter the United States have complete freedom of movement, with the exception of diplomatic personnel, who are required to inform the State Department of their travel plans.\textsuperscript{41} As for Americans traveling in China, there are certain restricted areas within the country that are not open to foreigners, but the situation is improving as tourism develops.\textsuperscript{42}

Articles 22 through 40 relate to consular functions and activities. For example, Article 24 deals with the representation of nationals before various authorities, such as the judicial courts, of the receiving State.\textsuperscript{43} This, however, does not mean that consular officers may play the role of attorneys. The only area in which consular officers may provide legal representation relates to the

\textsuperscript{36} \textit{Id.}, p. 2986. \textit{Also see} Article 21 in \textit{id.}, p. 2993, where it specifically states that consulate members (and their families) who are not nationals of the sending State cannot enjoy most of the immunities provided to members of the consulate staff that are nationals of the sending State.

\textsuperscript{37} \textit{UST, supra} note 1, Vol. 33, p. 2988.

\textsuperscript{38} \textit{Id.}, pp. 2988-2992.

\textsuperscript{39} \textit{Senate Hearings, supra} note 9, p. 5.

\textsuperscript{40} \textit{UST, supra} note 1, Vol. 33, p. 2993.

\textsuperscript{41} \textit{Senate Hearings, supra} note 9, p. 8. This is the general practice of the United States. It applies to all diplomatic personnel, from all countries, currently residing in the U.S.

\textsuperscript{42} \textit{Ibid.}

\textsuperscript{43} \textit{UST, supra} note 1, Vol. 33, pp. 2995-2996.
administration of estates. The Convention specifically renders consular officers "subject to the civil jurisdiction of the receiving State," and stipulates that "they are not authorized to act as attorneys at law."

The most important provision, arguably, of this bilateral convention is Article 35. This article concerns the consulate's ability to communicate with nationals of the sending State while in the host country. It assures that consuls whose nationals are arrested or detained will be notified promptly, no more than four days after the date of arrest or detention, and will have the right to visit and communicate with, and provide necessary assistance to, these nationals. Visits to detained nationals will be permitted as soon as possible, and may not be refused after two days from the date of notification of the arrest or detention. Subsequent visits may be made at intervals not exceeding one month. In essence, a sending State's rights of consular access to and protection of its nationals will continue even if detention, arrest, or judicial or administrative proceedings prevent the nationals from leaving the country. Theoretically, this provision represents a major step in protecting the welfare of American citizens visiting and residing in China. Unfortunately, as will be documented in the next chapter of this paper, practice does not always conform to theory. However, given the language of the text of Article 35 alone, this instrument should greatly improve the U.S. consulates' ability to extend assistance to all Americans in China. Also, U.S. nationals residing or traveling in the PRC are afforded the same degrees of protection as they would find in other countries.

Finally, the body of the U.S.-China Consular Convention concludes with Article 41, concerning the observation of the receiving State's laws, and Article 42, dealing with the entry into force and the future renunciation of this bilateral instrument.

44. Senate Hearings, supra note 9, p. 5.
45. Ibid.
46. UST, supra note 1, Vol. 33, pp. 3003-3005.
47. See Leich, Digest of U.S. Practice, supra note 29, p. 382. If the nationals' visas expire during that time, the receiving state would permit such persons to leave without requiring exit documentation, other than that which it normally required from departing aliens.
48. Leich, Digest of U.S. Practice, supra note 29, p. 381.
49. Senate Hearings, supra note 9, p. 3.
50. Id., p. 8.
51. UST, supra note 1, Vol. 33, p. 3009.
52. Id., p. 3010.
In addition to the Convention itself, there are two exchanges of letters attached that are considered to be an integral part of the Convention.\textsuperscript{53} The first exchange of letters was signed on September 17, 1980 to supplement the Convention,\textsuperscript{54} and it sets forth commitments from both countries to afford certain rights and benefits to individuals.\textsuperscript{55} Included in this first exchange of letters are the governments' promises to promote the reunion of families as quickly as possible. There is a lot of historical connection between the people of China, in particular southern China, and the Chinese Americans in the United States.\textsuperscript{56} After the establishment of diplomatic relations, the two countries fully anticipated the desires of their nationals to visit and reunite with their families overseas after many years of separation, and this exchange of letters helps to make these reunions possible.

Also included in this first exchange is an agreement to facilitate travel to the other country of persons who might have simultaneous claims to the nationality of both countries. Again, this provision is directed at Chinese Americans. For example, a person may have been born in China, and then emigrated to the United States, eventually becoming an American citizen under U.S. law. But sometimes the Chinese authorities in their home district may not recognize them as such. Thus, these naturalized Chinese Americans may not be given the same protection as other U.S. citizens.\textsuperscript{57} This agreement was created to remedy that particular problem, and was agreed upon without forcing either country to recognize dual citizenship. It represents a significant step towards providing full consular protection for all U.S. nationals.\textsuperscript{58}

Furthermore, this exchange of letters addresses the issue of foreign benefits payments: Persons entitled to financial benefits from the other country may receive such benefits, subject to mutually agreed upon arrangements, and in accordance with each country's laws and regulations.\textsuperscript{59} The letters also provide that, upon the entry into force of the U.S.-China Consular Convention, the tempo-

\begin{itemize}
\item \textsuperscript{53} For the first exchange of letters, see \textit{ibid.}, pp. 3042-3044.
\item \textsuperscript{54} \textit{Ibid.}, pp. 3042-3044, 3047.
\item \textsuperscript{55} Leich, \textit{Digest of U.S. Practice}, supra note 29, p. 382.
\item \textsuperscript{56} \textit{Senate Hearings}, supra note 9, p. 7.
\item \textsuperscript{57} \textit{Id.}, p. 5.
\item \textsuperscript{59} Leich, \textit{Digest of U.S. Practice}, supra note 29, p. 382.
\end{itemize}
US-PRC Consular Convention

The second exchange of letters, signed on January 17, 1981, amends the text of the Convention as follows:

(1) The first line in the preamble is changed from "the Government of the United States of America and the Government of the People's Republic of China" to "the United States of America and the People's Republic of China."

(2) The signature line at the end of the Convention is changed from "for the Government of the United States of America" and "for the Government of the People's Republic of China" to "for the United States of America" and "for the People's Republic of China."

Finally, in connection with expanding and developing U.S.-China consular relations, three related agreements were also signed to establish additional consulates general and to enlarge existing consular districts.

Interestingly enough, conspicuously missing from this bilateral consular treaty is any reference to the Republic of China on Taiwan. When the United States normalized relations with mainland China, it was forced to terminate official diplomatic relations with Taiwan. A concern prior to the advice and consent for ratification of this instrument by the U.S. Senate was whether this consular convention would in any way affect America's dealings with Taiwan. At the time, it was assured that the signing of this consular convention concerned the PRC only, and that the U.S.'s dealings with Taiwan were covered separately by the Taiwan Relations

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60. UST, supra note 1, Vol. 30, p. 19; TIAS 9177.
61. Ibid., Vol. 33, pp. 3049-3050.
63. Senate Hearings, supra note 9, p. 6.
Act. 64 However, the Standing Committee of China’s National People’s Congress almost did not ratify this bilateral treaty in 1981 because of tension that arose between the United States and China over a decision by the Reagan Administration to sell arms to Taiwan. 65 Fortunately, both countries were eventually able to formalize this convention despite their quarrels over Taiwan. The instruments of ratification of this consular convention were finally exchanged at a ceremony at the Chinese Foreign Ministry on January 19, 1982. 66 The convention itself was then entered into force after the expiration of 30 days following this exchange of the instruments of ratification. 67

The U.S.-China Consular Convention provides a legal basis for the United States and the PRC to promote trade, travel and other exchanges. Although it may be argued that the two countries can continue their diplomatic relations without such a consular treaty, it is difficult to imagine traveling or residing in each other’s territory without the added protections, the extra safeguards, and the facilitative provisions offered by this comprehensive bilateral treaty. 68

C. The Bilateral Convention in Relation to the Vienna Consular Convention

In addition to the bilateral U.S.-China Consular Convention, both the United States and the PRC are also signatories to the multilateral Vienna Consular Convention of 1963. At first glance, it may appear a bit strange that two States seeking full diplomatic relations would submit themselves to two different consular treaties. However, the Vienna Convention, in its Article 73, clearly allows for the co-existence of other consular agreements that “confirm, supplement, extend or amplify” its own provisions. 69 In fact, many States parties to the Vienna Convention have concluded supplementary bilateral treaties on their own. These countries include the United States and China, both of whom have concluded numerous

64. Ibid.
68. Senate Hearings, supra note 9, p. 6.
69. UNTS, supra note 2, Vol. 596, p. 320.
bilateral consular conventions, in addition to the Vienna Convention, with other States.\textsuperscript{70}

The Vienna Convention may be said to be the "codification" of international consular relations, i.e., provisions that are already considered customary international law. During the Senate hearings on the Vienna Convention on October 22, 1969, it was noted that, at the time, all existing U.S. bilateral consular treaties held higher standards for the protection of its consuls than the Vienna Convention.\textsuperscript{71} Thus, the Senate consented to the ratification of the Vienna Convention because it was agreed upon that this multilateral convention set forth "minimum standards" that should be applied to all consular treaties, and that the United States should use future bilateral treaties to supplement and raise these minimum requirements to a higher standard. These minimum, agreed-upon standards would serve to reduce conflicts between States concerning consular relations. Thus, the United States would use the Vienna Convention as a basis to seek more protection in its consular relations with other countries where it so desired.\textsuperscript{72} Later, the American Law Institute (ALI) confirmed this interpretation given in the U.S. Senate hearings by stating that, between two States parties to both the Vienna Convention and a bilateral consular treaty, the instrument that "affords greater privileges and immunities prevails", regardless of which is first in time.\textsuperscript{73}

Thus, although both the United States and the PRC are parties to the Vienna Convention, both probably felt the need to elaborate upon their consular relations. For example, the United States believes that the Vienna Convention is inadequate in its protection of members of the consulate,\textsuperscript{74} because it does not contain a provision for the absolute inviolability of consular premises.\textsuperscript{75} This is just one of the many concerns the United States has about the lack of protection afforded by the multilateral treaty.


\textsuperscript{72} \textit{Id.}, pp. 30953-30954.


\textsuperscript{74} Salem, "International Law and Arms Control," \textit{supra} note 5, p. 154.

\textsuperscript{75} \textit{Ibid.}
The Vienna Convention deals with consular issues on a generalized basis, whereas the bilateral U.S.-China Consular Convention was concluded to complement and expand upon the Vienna Convention. This bilateral instrument goes beyond the Vienna Convention in many respects, especially in its reference to American citizens. But what it does not do is interfere with the Vienna Convention. In fact, it provides details that make consular relations coverage more pervasive.

The specific provisions of the U.S.-China Consular Convention supplements the Vienna Convention in many ways. For example, concerning the issue of immunity of consulate members in the receiving State, Article 13 of the bilateral instrument provides for considerably greater protection for consular personnel and their families than otherwise would be required under customary international law and practice, by offering complete and absolute immunity from criminal jurisdiction as well as from civil and administrative jurisdiction. This is not provided for in the Vienna Convention. Also, Article 16 of the bilateral convention provides more specific provisions concerning the exemption of real and movable property from taxation than those given in Article 32 of the Vienna Convention. And as for the immunity from requisition given in Article 19 of the U.S.-China Consular Convention, the Vienna Convention does not even offer this.

Articles 24 through 29 of the bilateral convention outline the various functions that consular officers and their staff members perform. These are more specific than those in Article 5 of the Vienna Convention. In fact, the bilateral convention goes as far as to consider the legal force of documents prepared by consular officers. Also elaborated upon in the U.S.-China Consular Convention are the provisions concerning notification regarding the death

76. Senate Hearings, supra note 9, p. 3.
77. Id., p. 8.
78. UST, supra note 1, Vol. 33, p. 2986.
79. UNTS, supra note 2, Vol. 596, p. 296. Article 41 addresses the personal inviolability of consular officers, and Article 42 deals with notification of arrest, detention or prosecution of consular officers.
81. UST, supra note 1, Vol. 33, p. 2992.
82. Id., pp. 2995-2998.
83. UNTS, supra note 2, Vol. 596, pp. 268-279.
84. UNTS, supra note 1, Vol. 33, p. 2998, Article 28.
of a national, as well as the establishment of guardianship or trusteeship.\textsuperscript{85}

In matters related to the death of nationals that occur within the territory of the receiving State, the U.S.-China Consular Convention spells out, in extensive detail, how the consulate shall handle the estates and moneys of such persons.\textsuperscript{86} There is nothing in the Vienna Consular Convention about these matters. Given that such details are provided on this topic, one can see that this issue was a big concern to both the United States and China.

As mentioned earlier, one of the most important provisions in the bilateral consular treaty is Article 35, entitled “Communication with Nationals of the Sending State.”\textsuperscript{87} In subsection 2, it specifies that when a sending State’s citizen is detained in a receiving State district for some cause or another, the consulate shall be notified immediately, but no later than within four days, by the appropriate authorities of such detention and shall have access to the detainees.\textsuperscript{88} In addition to this, subsection 4 stipulates that access shall not be refused after two days from the time the receiving State notifies the consulate of the detention, and visits by consulate members to detained nationals may be made on a recurring basis.\textsuperscript{89} Subsection 5 states that the consular officer shall be informed of the charges made against the detained national, and subsection 7 states that the receiving State shall do everything possible to provide all relevant and available information concerning the whereabouts of a national of the sending State.\textsuperscript{90}

These provisions should benefit both parties involved, but are of particular importance to the United States.\textsuperscript{91} The Vienna Convention’s Article 36 merely allows access in general terms, and only at the will of the individual detainee.\textsuperscript{92} But now, armed with this bilateral consular treaty, the United States is theoretically assured of notification within a set period of time, the right of access in a prompt manner, and the right to be present at trial.\textsuperscript{93} However, as

\textsuperscript{85} Id., p. 2999, Articles 30 and 31. These provisions contain more details than Article 37 of the Vienna Convention, in UNTS, supra note 2, Vol. 596, p. 294.

\textsuperscript{86} UST, supra note 1, Vol. 33, pp. 3000-3002. Articles 32, 33 and 34.

\textsuperscript{87} Id., pp. 3003-3005.

\textsuperscript{88} Id., p. 3003.

\textsuperscript{89} Id., p. 3004.

\textsuperscript{90} Ibid.

\textsuperscript{91} Senate Hearings, supra note 9, p. 4.

\textsuperscript{92} UNTS, supra note 2, Vol. 596, pp. 292-294.

\textsuperscript{93} Senate Hearings, supra note 9, p. 4.
mentioned earlier, the practice of the PRC sometimes does not conform to the provisions of the U.S.-China Consular Convention.

Finally, Articles 36 through 39 of the bilateral convention deal with consular functions relating to vessels from the sending State within the territorial waters of the receiving State.94 Again, these provisions are more elaborate than those offered in Article 5 of the Vienna Consular Convention.95 This is also true for civil aircrafts, as provided for in Article 40 of the bilateral convention.96

D. The People's Republic of China Consular Privileges and Immunities Act

In a further effort to specify the privileges and immunities of all foreign consuls and their staff in China, the Standing Committee of the 7th National People's Congress in their 16th meeting, on October 30, 1990, adopted China's first regulations on consular privileges and immunities.97 These regulations, which became effective upon being made public, contain provisions similar to those found in the U.S.-China Consular Convention.

One may wonder why the Standing Committee created this People's Republic of China Consular Privileges and Immunities Act (hereinafter referred to as the PRC Consular Act). With China being a party to numerous bilateral consular treaties and a signatory of the multilateral Vienna Consular Convention, what is the purpose of adopting this Act? Article 1 of the PRC Consular Act answers this question by stating that the Act was "instituted to reaffirm special consular privileges and immunities of foreign consulates in China and their members, so that foreign consulates in China can effectively perform their duties on behalf of their home countries in their consular districts."98

The PRC Consular Act is distinct from both the U.S.-China Consular Convention and the Vienna Consular Convention in that some of its provisions are even more detailed than the provisions in

94. UST, supra note 1, Vol. 33, pp. 3005-3008.
95. UNTS, supra note 2, Vol. 596, pp. 268-270. See in particular subsections (k) and (l).
96. UST, supra note 1, Vol. 33, p. 3009.
the two earlier conventions. Needless to say, these provisions are more favorable to China's interests. For example, Article 9 of the PRC Consular Act stipulates that a consulate may install radio transmitters and receivers only with the permission of the Chinese government. In Article 10, it states that consular pouches shall only contain documents for official use, and if any relevant Chinese authority has any "strong reason to believe that a consular pouch contains things other than the [official documents], it may ask a consular officer to open the pouch in the presence of personnel of the Chinese authority concerned. If the consular officer rejects this request, the... pouch should be returned to the [sender]."

Article 11 deals specifically with the consular messengers and carriers of the consular pouch. This subject is virtually untouched in the U.S.-China Consular Convention. Also, another topic that is unique to the PRC Consular Act is that of the import and export of firearms for personal use by consular personnel, which must be approved by the Chinese government, and is explicitly dealt with in Article 20. Finally, Article 24(2) broadly states that personnel with consular privileges and immunities shall not "interfere in China's internal affairs."

One particularly disturbing issue found in the PRC Consular Act is its treatment of the immunities of consular members. In Article 12, the Act specifies that although consular officers are immune and personally inviolable from civil, administrative and criminal jurisdiction, they may still be arrested or detained "if they commit serious crimes... in accordance with legal procedures." The article then continues by stating that consular officers are immune from imprisonment "except when a verdict which is legally effective is to be carried out."

In addition to this, in Article 14, the PRC Consular Act stipulates that:

Judicial immunity of consular officers and administrative and technical personnel of consulates shall not apply to the following civil lawsuits:

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99. Ibid.
100. Ibid.
102. Id., p. 22.
103. Ibid.
104. Id., p. 21.
105. Ibid.
(1) Lawsuits involving contracts signed by representatives of dispatching countries... but without clearly identifying them;

(2) Lawsuits concerning privately owned immovable estates in China, with the exception of those immovable estates possessed by persons in the capacity of representatives of dispatching countries and used by consulates;

(3) Lawsuits concerning inheritance of legacies conducted by those as private individuals; and

(4) Lawsuits involving indemnity for losses resulting from vehicle, ship, or aircraft incidents in China.\textsuperscript{106}

These provisions appear to be in direct conflict with Article 13 of the U.S.-China Consular Convention. However, this conflict is possibly reconciled by Article 27 of the PRC Consular Act, which states that consular privileges and immunities “otherwise provided for” in international and bilateral consular treaties, in which China is a signatory, shall apply instead of the privileges and immunities stated in the PRC Consular Act.\textsuperscript{107} What this means in practice is unclear; however, in theory, the United States probably should not be too concerned with the PRC Consular Act because it seems it will only be applicable to countries that have not yet concluded any other consular treaties with China. Article 27 appears to leave the U.S.-China Consular Convention intact.

\textbf{IV. THE EFFECTIVENESS OF THE CONSULAR CONVENTION}

As noted before, the Chinese government has already established a reputation of not always adhering to the provisions agreed upon in the U.S.-China Consular Convention. The provisions that have caused the most problems are those stated in Article 35, concerning the treatment, notification of detention and protection of nationals from the sending State within the territory of the receiving State. Between the years 1982 to 1996, many cases were reported in which China violated this article, usually by detaining an American citizen without promptly notifying the U.S. authorities, or by arresting such persons without providing relevant and available information concerning these arrests and detentions.

\textsuperscript{106} \textit{Ibid.}
\textsuperscript{107} \textit{Id.}, p. 22.
The following are a few examples of China's violation of the U.S.-China Consular Convention. Before discussing details of these examples, one should note that although the U.S. government has frequently expressed "concern" over China's arrests or detentions of Chinese dissidents who later become U.S. permanent residents, in these situations, China does not owe any obligations to the United States under the bilateral Consular Convention. In fact, the United States' concerns or criticisms of these acts are mainly issues related to the international minimum standards of human rights.

The first major conflict regarding the U.S.-China Consular Convention occurred on May 28, 1982, a mere three months after the Convention was entered into force. An American teacher from Indianapolis, Indiana, Lisa Wichser, was detained by Chinese police in Beijing in connection with the alleged theft of state secrets. The United States immediately protested certain aspects of the handling of this case. There was particular concern about the fact that the U.S. Embassy was not informed of Ms. Wichser's seizure until one and a half days after the arrest, and was not allowed to visit her until two days after that.105

Although the theft of state secrets is a serious crime, both in China and the United States, Ms. Wichser, a University of Denver student who was writing her doctoral dissertation on economics, was never formally arrested nor charged. The Chinese authorities merely claimed that she had "violated Chinese laws by engaging in activities that are incompatible with her status."111 After six days of detention, she was finally released as a result of her confession of the "crimes" she committed and her plea for leniency. The U.S. Embassy was still uncertain as to what she was supposedly guilty of after her expulsion from China.112 It was discovered later that Ms. Wichser was accused of espionage, because during the course of writing her dissertation, she received documents that were "for internal use" within the PRC government and were not supposed to be circulated to her.113 However, one cannot be sure of what con-

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109. Ibid.
110. Ibid.
111. Ibid.
stimates an “internal use” document in the PRC. The United States then issued a statement accusing China of violating the bilateral consular convention, yet China categorically denied doing so, and retaliated by accusing America of distorting the facts and making an unwarranted charge.

At the center of this conflict was Article 35 of the U.S.-China Consular Convention and the promptness, or the lack thereof, in which China notified the United States of the detention of its citizens. The two countries differed in their views concerning the interpretation of this text. China interpreted Article 35 literally, by insisting that they in fact had four days to notify the United States of this arrest and detention. The United States however, felt that this literal interpretation was “in clear contradiction to the spirit of the convention, which . . . requires immediate notification and access as soon as possible, but not later than the specific deadlines.” This difference in interpretation was never formally resolved and continues to be a problem for the United States regarding China’s consular practices.

In May 1991, an American businessman was arrested, this time in the southern city of Guangzhou, China, for alleged economic crimes. He was held for over one month without being formally charged. U.S. officials reportedly complained to the Chinese authorities that they had not been told of the man’s detention for a month.

In August 1993, the Chinese authorities again arrested an American businessman without informing the U.S. consulate. Philip Cheng, a Chinese American, was detained in the city of Changsha, Hunan Province, after PRC Public Security Bureau agents burst into his hotel room while he was signing a contract with a Chinese company. The U.S. government found out about this situation through his family, who at the time did not know why

114. Ibid.
119. Ibid.
121. Ibid.
he was arrested.\footnote{122} Mr. Cheng was finally released after seven months of detention, when it was discovered that he was wrongfully accused of misappropriating funds in an investment deal by local officials and by “swindlers.”\footnote{123}

Also, in 1994, three American citizens, including a pastor named Dennis Balcombe, were detained in China for five days under China’s new laws to control religious activities.\footnote{124} Again, U.S. officials were concerned over the failure of Chinese authorities to promptly inform them of these detentions. They learned of the arrests three days later from a relative of one of the detainees.\footnote{125}

Another well-known incident regarding Article 35 of the U.S.-China Consular Convention is that of the human rights activist and naturalized Chinese American, Harry Hongda Wu. He was detained by the Chinese government on June 19, 1995 and the U.S. Embassy was notified of his detention on June 23, 1995, which was far past the deadline of notification required under the bilateral convention.\footnote{126} For twenty days, access to Harry Wu for American consular officials was rejected despite Mr. Wu’s and the U.S. Embassy’s repeated requests.\footnote{127} He was later convicted of espionage and was expelled in August 1995.

On June 3, 1996, an American businessman, William Ping Chen, was detained and accused of bringing contraband into China.\footnote{128} The American consul was notified on June 4,\footnote{129} but was not allowed to see Mr. Chen on June 5, 1996, when an American consul met with Shanghai security officials and requested a visit.\footnote{130} On June 6, 1996, consular officials were finally given access to Mr.

\footnote{122} Ibid.


Chen for the first time.\textsuperscript{131} Once again, the Chinese hold the position that they do not have an obligation to give the U.S. consul "immediate" access to their nationals, but rather they have up to the "maximum" deadline permitted under the bilateral convention to give the U.S. consulate notification or the right to visit.

To be fair, the United States also sometimes does not conform to the provisions provided in Article 35 of the U.S.-China Consular Convention. For example, in 1994, the F.B.I. arrested three Chinese nationals on charges of conspiracy to kidnap a Chinese businessman in Los Angeles.\textsuperscript{132} When asked whether the required "prompt notification" of these arrests was given to Chinese diplomats, the Assistant U.S. Attorney declined to answer. However, the Chinese Embassy and the Chinese consulate in Chicago both stated that they did not receive notification of this matter.\textsuperscript{133}

V. CONCLUSION

From this brief discussion and analysis of the U.S.-China Consular Convention, one can see the purpose of this bilateral treaty. After establishing diplomatic relations with the PRC, the United States ultimately needed an instrument that would specify the official duties of the consular officers and staff members overseas, as well as protect all American nationals who travel or reside within that country. China's interests are no different. No doubt they had the same concerns as the United States.

The bilateral U.S.-China Consular Convention is remarkably similar to the multilateral Vienna Consular Convention. And where the provisions differed from the Vienna Convention, the U.S.-China bilateral treaty generally granted broader rights, privileges and immunities to consulates and consular personnel, as well as more specific protection for foreign nationals.

Questions may arise concerning the necessity of concluding the U.S.-China Consular Convention when both parties already are signatories to the multilateral Vienna Consular Convention. Although the countries may differ in their respective interpretations of the articles of the bilateral convention, and although sometimes the protection provided for in the bilateral convention may not be fol-

\textsuperscript{133} \textit{Ibid.}
ollowed in practice, one cannot help but see the benefits the United States and China derived from the explicit and specific provisions offered within this treaty. The U.S.-China Consular Convention was the first treaty of its kind that provided such details concerning consular relations with the PRC. It became the standard for all other bilateral consular treaties concluded by China. After the conclusion of this U.S.-China convention, consular treaties between the PRC and other foreign countries were soon renegotiated, and new consular conventions with China were then concluded.\textsuperscript{134}

Despite its shortcomings and its occasional lack of practical applicability, the U.S.-China Consular Convention does indeed provide the basis for all diplomatic, cultural, technical, educational and economic exchanges between the Unites States and the PRC. It also establishes a comprehensive framework for Sino-U.S. consular relations.\textsuperscript{135} Its most important function, however, is that it prevents the two States from committing acts that may, in an untimely manner, ultimately sever relations between them, relations that took much time and effort to build.


Appendix: Consular Convention between the United States of America and the People's Republic of China
(English language text only)
[cited as 33 UST 2973; TIAS 10209]

PEOPLE'S REPUBLIC OF CHINA

Consular Relations

Convention, with exchange of notes, signed at Washington September 17, 1980;
Transmitted by the President of the United States of America to the Senate January 19, 1981 (Treaty Doc. No. 97–3, 97th Cong., 1st Sess.);
Reported favorably by the Senate Committee on Foreign Relations June 17, 1981 (S. Ex. Rept. No. 97–14, 97th Cong., 1st Sess.);
Advice and consent to ratification by the Senate December 11, 1981;
Ratified by the President January 4, 1982;
Ratified by the People's Republic of China January 26, 1981;
Ratifications exchanged at Beijing January 19, 1982;
Proclaimed by the President February 8, 1982;
Entered into force February 19, 1982.
And modifying agreement
Effective by exchange of notes
Dated at Beijing January 17, 1981;
Entered into force February 19, 1982.

By the President of the United States of America

A PROCLAMATION

Considering that:
The Consular Convention between the United States of America and the People's Republic of China, together with related notes, was signed at Washington on September 17, 1980, the texts of which are hereto annexed.
The Senate of the United States of America by its resolution of December 11, 1981, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Convention;

The Convention was ratified by the President of the United States of America on January 4, 1982, in pursuance of the advice and consent of the Senate, and was duly ratified on the part of the People’s Republic of China;

It is provided in Article 42 of the Convention that the Convention shall enter into force after the expiration of thirty days following the date of the exchange of instruments of ratification;

The instruments of ratification of the Convention were exchanged at Beijing on January 19, 1982, and accordingly the Convention enters into force on February 19, 1982;

Now, therefore, I, Ronald Reagan, President of the United States of America, proclaim and make public the Convention to the end that it shall be observed and fulfilled with good faith on and after February 19, 1982, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

In testimony whereof, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

Done at the city of Washington this eighth day of February in the year of our Lord one thousand nine hundred eighty-two and of the Independence of the United States of America the two hundred sixth.

RONALD REAGAN

By the President:

WALTER J. STOESSEL

Acting Secretary of State
CONSULAR CONVENTION BETWEEN
THE UNITED STATES OF AMERICA AND
THE PEOPLE'S REPUBLIC OF CHINA

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

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

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

For the United States of America:

Jimmy Carter, President

For the People’s Republic of China:

Bo Yibo, Vice Premier

Who, having examined and exchanged their respective full
powers, which were found in good and due form, have agreed as
follows:
ARTICLE 1
Definitions

For the purpose of the present Convention, the terms listed below shall have the following meanings:
1. "Consulate" means a consulate general, consulate, vice consulate, or consular agency;
2. "Consular district" means the area assigned to a consulate for the exercise of consular functions;
3. "Head of a consulate" means the consul general, consul, vice consul or consular agent who is charged by the sending State to head a consulate;
4. "Consular officer" means any person, including the head of a consulate, who is charged by the sending State with the performance of consular functions;
5. "Consular employee" means any person who performs administrative, technical, or service functions at a consulate;
6. "Member of a consulate" means any consular officer or consular employee;
7. "Members of the family" means the spouse, minor children and other relatives of a member of a consulate who form a part of his household;
8. "Consular premises" means buildings or parts of buildings, as well as the grounds ancillary thereto, used exclusively for the purposes of a consulate, regardless of ownership;
9. "Consular archives" means all correspondence, codes and ciphers, documents, records, files, tapes and books of a consulate, as well as any article of furniture intended for their storage or safekeeping;
10. "Vessel of the sending State" means any vessel sailing under the flag of the sending State, in accordance with the law of the sending State, excluding military vessels;

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

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

ARTICLE 2
Opening of Consulates

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

2. The determination of the seat of the consulate, its classification, and its consular district, as well as any changes pertaining thereto, shall be through agreement between the sending and receiving States.
ARTICLE 3

Appointment of the Head of a Consulate

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

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

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

4. The receiving State shall, immediately after granting recognition, including provisional recognition, take all measures necessary to enable the head of the consulate to exercise his functions and to enjoy the rights, facilities, privileges and immunities granted under this Convention and under the law of the receiving State.
5. If for any reason the head of a consulate is unable to exercise his functions, or if the position of the head of consulate is vacant, the sending State may place its consulate under the temporary charge of a consular officer of the same or of another consulate in the receiving State or a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State. The sending State shall notify the receiving State in advance of the full name of the person appointed as acting head of a consulate.

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

7. Entrusting a member of the diplomatic staff of the diplomatic mission of the sending State with the functions of head of a consulate does not limit the privileges and immunities to which such person is entitled by virtue of diplomatic status, subject to the provisions of Article 33, paragraph 4 of this Convention.

ARTICLE 4

Appointment of Members of a Consulate

1. The sending State may staff its consulate with the number of members of a consulate it considers necessary. The receiving State may, however, require that the number of such members of a consulate be kept within the limits which it considers to be reasonable, having regard to existing circumstances and conditions in the consular district and the needs of a particular consulate.
2. Consular officers shall be nationals of the sending State only, and shall not be permanent residents of the receiving State.

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

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

   (a) the designation of all consular employees, their full name, nationality and functions, their arrival, their final departure or termination of their functions, as well as other changes affecting their status while assigned to the consulate;

   (b) the arrival and final departure of members of the family of a member of a consulate and when any such individual becomes or ceases to be a member of the family;

   (c) the employment or dismissal of a consular employee who is a national or permanent resident of the receiving State.
ARTICLE 5

Performance of Consular Functions
by a Diplomatic Mission

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

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

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

ARTICLE 6

Terminating Functions of
Members of a Consulate

1. The receiving State may at any time, and without having to explain its decision, notify the sending State through diplomatic channels that the head of a consulate is persona non grata or that any other member of a consulate is unacceptable. In such a case, the sending State shall recall such person or terminate his functions in the consulate.
2. If the sending State refuses or fails within a reasonable time to carry out the obligation contained in paragraph 1 of this Article, the receiving State may either withdraw recognition from the person concerned or refuse to consider him as a member of the consulate.

3. The functions of a member of a consulate shall come to an end, among other things, upon the:
   
   (a) notification by the sending State to the receiving State that his functions have come to an end;

   (b) withdrawal by the receiving State of recognition; or

   (c) notification by the receiving State to the sending State that the receiving State has ceased to consider the person as a member of the consulate.

ARTICLE 7

Facilities for the Operation of a Consulate and Protection of Consular Officers

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

2. The receiving State shall afford appropriate protection to consular officers to prevent any attack upon their person, freedom or dignity and further shall take all measures necessary to ensure that consular officers are able to perform their functions and enjoy the rights, facilities, privileges and immunities provided them under this Convention.
ARTICLE 8
Acquisition of Consular Premises and Residences

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

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

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

ARTICLE 9
Use of the National Flag and Emblems

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

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

3. In exercising the rights provided by this Article, the sending State shall observe the law and customs of the receiving State.
ARTICLE 10
Inviolability of Premises and Residences

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

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

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

ARTICLE 11
Inviolability of Archives

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

ARTICLE 12
Freedom of Communications

1. A consulate shall be entitled to exchange communications with its government, with diplomatic missions of the sending State and with other consulates of the sending State, wherever situated. For this purpose, the consulate may employ all ordinary means of communication, including diplomatic and consular couriers, diplomatic and consular bags and codes and ciphers. The consulate may install and use a wireless transmitter only with the prior consent of the receiving State.
2. The official correspondence of a consulate, regardless of the means of communication employed, as well as sealed consular bags and other containers, provided they bear visible external marks of their official character, shall be inviolable. They may contain nothing other than official correspondence and articles intended exclusively for official use.

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

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

5. If a master of a vessel or captain of a civil aircraft of the sending State is charged with an official consular bag, the master or captain shall be provided with an official document showing the number of containers forming the consular bag entrusted to him; he shall not, however, be considered to be a consular courier. By arrangements with the appropriate authorities of the receiving State, and in compliance with the safety regulations of the receiving State, the sending State may send a member of the consulate to take possession of the consular bag directly and freely from the master of the vessel or captain of the aircraft or to deliver such bag to him.
ARTICLE 13

Immunity of Members of a Consulate from the Jurisdiction of the Receiving State

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

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

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

   (a) resulting from contracts that were not concluded by a member of a consulate on behalf of the sending State;

   (b) relating to succession in which a member of a consulate was involved as executor, administrator, heir or legatee in a private capacity;

   (c) concerning a claim by a third party for damage caused by a vessel, vehicle or aircraft;

   (d) concerning private immovable property in the jurisdiction of the receiving State, unless the member of a consulate is holding it on behalf of the sending State for the purposes of the consulate;

   (e) relating to any private professional or commercial activities engaged in by a member of a consulate in the receiving State outside of his official functions.
4. No measures of execution shall be taken against any of the persons mentioned in this Article, except in the cases under paragraph 3(d) of this Article, and then under the condition that these measures shall not infringe upon the inviolability of their person or residence.

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

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

7. In taking testimony of members of a consulate, the authorities of the receiving State shall take all appropriate measures to avoid hindering the performance of their official consular duties. Upon the request of the head of a consulate, such testimony may, when possible, be given orally or in writing at the consulate or at the residence of the person concerned.
ARTICLE 14
Waiver of Immunity

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

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

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

ARTICLE 15
Exemption from Services and Obligations

Consular officers and consular employees and members of their families who are not nationals of the receiving State and who are not aliens lawfully admitted for permanent residence in the receiving State shall be exempt in the receiving State from obligations and services of a military nature, from any kind of compulsory services, and from any contributions that may be due in lieu thereof. They shall likewise be exempt from obligations relating to the registration of aliens, from obtaining permission to reside, and from compliance with other similar obligations applicable to aliens.
ARTICLE 16
Exemption of Real and Movable Property from Taxation

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

(a) the consular premises and residences of members
    of a consulate referred to in Article 8 of
    this Convention;

(b) transactions or documents relating to such
    immovable property.

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

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

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

5. The provisions of this Article also apply to all
immovable property used for the official purposes of the diplo-
matic mission of the sending State, including residences of
diplomatic mission personnel.
ARTICLE 17
Exemption of Members of a Consulate from Taxation

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

2. The exemption provided by paragraph 1 of this Article shall not apply with respect to:
   (a) indirect taxes of a kind normally included in the price of goods and services;
   (b) dues and taxes imposed with respect to private immovable property located in the territory of the receiving State, unless an exemption is provided by Article 16 of this Convention;
   (c) estate, succession and inheritance taxes and taxes on the transfer of property rights imposed by the receiving State, except as provided in paragraph 3 of this Article;
   (d) dues and taxes on private income earned in the receiving State;
   (e) charges for specific services rendered;
   (f) dues and taxes on transactions or on documents relating to transactions, including fees of any kind collected by reason of such transactions, except for fees and charges exemption from which is provided in Article 16 of this Convention.
3. If a member of a consulate or a member of his family dies, no estate, succession or inheritance tax or any other tax or charge on the transfer of movable property at death shall be imposed by the receiving State with respect to that property, provided that the presence of the property was due solely to the presence of the deceased in the receiving State in the capacity of a member of a consulate or a member of his family.

ARTICLE 18
Exemptions from Customs Duties and Inspection

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

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

3. Consular employees and members of their families shall be exempt from customs duties and other charges imposed upon or by reason of the importation or exportation of articles for their own personal use, including articles for the equipment of their households, imported at time of first arrival at a consulate.
4. Articles designed for personal use shall not exceed the quantities required for direct use by the person accorded an exemption by this Article.

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

ARTICLE 19

Immunity from Requisition

Consular premises as well as the official means of transport of the consulate are not liable to any form of requisition. If for the needs of the national defense or other public purposes expropriation of consular premises, residences or means of transport becomes necessary, all possible measures must be taken by the receiving State to avoid interference with the performance of consular functions and promptly to pay appropriate and effective compensation to the sending State.
ARTICLE 20
Freedom of Movement

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

ARTICLE 21
Exclusion from the Enjoyment of Rights,
Facilities, Privileges and Immunities

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

ARTICLE 22
Functions of Consular Officers

1. The functions of a consular officer consist of:
   (a) protecting the rights and interests of the
       sending State and of its nationals, including
       juridical persons;
   (b) rendering assistance to and cooperating with
       nationals of the sending State, including
       juridical persons;
(c) contributing to the development of economic, commercial, cultural, scientific and tourist relations between the sending and the receiving States;

(d) promoting in various ways the development of friendly relations between the sending and the receiving States;

(e) ascertaining by all lawful means conditions and developments in the political, commercial, economic, cultural, educational and scientific-technological life of the receiving State, and reporting thereon to the government of the sending State.

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

ARTICLE 23

Execution of Consular Functions

1. A consular officer shall be entitled to execute his functions only within the consular district. A consular officer may execute his functions outside the limits of the consular district only with the advance consent of the receiving State given separately in each instance.
2. In executing his functions, a consular officer may approach orally or in writing:

(a) the competent local authorities in the consular district;

(b) the competent central authorities of the receiving State, if and to the extent allowed by the law and customs of the receiving State.

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

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

ARTICLE 24

Representation before the Authorities of the Receiving State

1. A consular officer shall be entitled, in accordance with the law of the receiving State, to take appropriate measures for the protection of the rights and interests of nationals of the sending State, including juridical persons, before the courts and other authorities of the receiving State, where, because they are not present in the receiving State or for any other reason, these nationals are not in a position to undertake timely defense of their rights and interests.
2. The measures referred to in paragraph 1 of this Article shall cease as soon as the national appoints his own representative or the national assumes the defense of his rights and interests.

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

ARTICLE 25
Functions with Regard to Travel Documents

A consular officer shall be entitled to:

1. issue to nationals of the sending State passports or similar travel documents, as well as make amendments in them;

2. issue visas or other appropriate documents to persons wishing to travel to or through the sending State.

ARTICLE 26
Functions Regarding Citizenship and Civil Status

A consular officer shall be entitled to:

1. register nationals of the sending State;

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

ARTICLE 27
Notarial Functions

A consular officer shall be entitled to:
1. receive and witness statements made under oath or
affirmation, and, in accordance with the law of the receiving
State, to receive the testimony of any person for use in
connection with a legal proceeding in the sending State;
2. draw up or authenticate any act or document, as well
as copies or extracts thereof, of a national of the sending
State, including a juridical person, for use outside the
receiving State or of any person for use in the sending State,
or perform other notarial functions;
3. authenticate documents issued by competent
authorities of the receiving State for use in the sending
State.
ARTICLE 28

Legal Force of Documents Prepared by a Consular Officer

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

ARTICLE 29

Serving Judicial and Other Legal Documents

A consular officer shall be entitled to serve judicial and other legal documents in accordance with international agreements in force between the sending and receiving States or, in the absence of such agreements, to the extent permitted by the law of the receiving State.
ARTICLE 30

Notification on the Establishment of Guardianship or Trusteeship

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

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

ARTICLE 31

Notification Regarding the Death of a National of the Sending State

Whenever the competent authorities of the receiving State learn that a national of the sending State has died in the receiving State, they shall immediately notify the appropriate consular officer of the sending State and, upon his request, send him a copy of the death certificate or other documentation confirming the death.
ARTICLE 32

Notification Regarding the Estate of a Deceased National

1. Whenever the appropriate local authorities of the receiving State learn of an estate resulting from the death in the receiving State of a national of the sending State who leaves in the receiving State no known heir or testamentary executor, they shall as promptly as possible so inform a consular officer of the sending State.

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

ARTICLE 33

Functions Relating to Estates

1. A consular officer shall be entitled to take appropriate measures with respect to the protection and conservation of the property of a deceased national of the sending State left in the receiving State. In this connection he may approach the competent authorities of the receiving State with a view towards protecting the interests of a sending State national, not a permanent resident of the receiving State, unless such a national is otherwise represented. He may also request the competent authorities of the receiving State to permit him to be present at the inventorying and sealing and, in general, to take an interest in the proceedings.
2. A consular officer shall be entitled to safeguard the interests of a national of the sending State who has, or claims to have, a right to property left in the receiving State by a deceased person, irrespective of the latter's nationality, and if that interested national is not in the receiving State or does not have a representative there.

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

(a) presenting a power of attorney or other authorization from such national residing outside the receiving State;

(b) furnishing reasonable evidence of the receipt of such money or other property by such national; and

(c) returning the money or other property in the event he is unable to furnish such evidence.
4. In exercising the rights provided by paragraphs 1 through 3 of this Article, the consular officer must comply with the law of the receiving State in the same manner and to the same extent as a national of the receiving State and, irrespective of the provisions of Article 13 of this Convention, shall be subject in this respect to the civil jurisdiction of the receiving State. Further, nothing in these Articles shall authorize a consular officer to act as an attorney-at-law.

ARTICLE 34
Provisional Custody of Money and Effects of a Deceased National of the Sending State

If a national of the sending State, not a permanent resident of the receiving State, dies during a temporary stay in or transit through the receiving State, and the deceased person did not leave a legal representative in the receiving State, the consular officer shall be entitled immediately to take provisional custody of the money, documents and personal effects that were in the national's possession for transfer to an heir, executor, or other person authorized to receive such property, to the extent permitted by the law of the receiving State.
ARTICLE 35

Communication with Nationals of the Sending State

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

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

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

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

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

7. A consular officer of the sending State may request the assistance of the authorities of the receiving State in ascertaining the whereabouts of a national of the sending State. The authorities of the receiving State shall do everything possible to provide all relevant and available information.
8. The rights contained in this Article shall be exercised in accordance with the law of the receiving State. Nevertheless, such law shall be applied so as to give full effect to the purposes for which these rights are intended.

ARTICLE 36
Rendering Assistance to Vessels

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

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

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

4. The consular officer may request the cooperation of the authorities of the receiving State in carrying out his functions with regard to vessels of the sending State and with regard to the master, members of the crew, passengers and cargo.
ARTICLE 37
Rendering Assistance to Master and Crew

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

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

ARTICLE 38
Protection of Interests in Case of Investigations

1. When the courts or other competent authorities of the receiving State intend to take compulsory actions or to start an official investigation aboard a vessel of the sending State which is in the internal or territorial waters of the receiving State, or on the shore with regard to the master or member of the crew, those authorities must notify the appropriate consular officer of the sending State. If, because of the urgency of the matter, it has not been possible to inform the consular officer before initiation of the actions involved, and the consular officer or his representative has not been present when the actions were carried out, the competent authorities of the receiving State shall promptly provide him with the full relevant particulars of the actions taken.
2. Except at the request of the vessel's master or the consular officer, the judicial or other competent authorities of the receiving State shall not interfere in the internal affairs of the vessel on questions of relations between the members of the crew, labor relations, discipline and other activities of an internal character, when the peace and safety of the receiving State are not violated.

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

ARTICLE 39
Assistance to Damaged Vessels

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

2. A vessel which has suffered a misfortune and its cargo and provisions shall not be subject to customs duties on the territory of the receiving State unless they are delivered for use in that State.
ARTICLE 40
Functions with Regard to Aircraft

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

ARTICLE 41
Observing the Law of the Receiving State

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

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

3. All means of transportation of the consulate or of members of a consulate and their families shall be adequately insured against civil actions by third parties.
ARTICLE 42
Entry into Force and Renunciation

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

2. The present Convention shall enter into force after the expiration of thirty days following the date of the exchange of instruments of ratification.[1]

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

---

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

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE
PEOPLE'S REPUBLIC OF CHINA:

Jimmy Carter  Bo Yibo

1 Jimmy Carter.
2 Bo Yibo.
EXCHANGE OF NOTES

The Secretary of State to the Chinese Ambassador

DEPARTMENT OF STATE
WASHINGTON

September 17, 1980

Excellency:

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

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

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

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

4. Both governments agree that persons residing in one country who are entitled to receive financial benefits from the other country shall receive their benefits under mutually agreed arrangements and in accordance with each country's laws and regulations.
If your Excellency confirms the above by a note in reply on behalf of the Government of the People's Republic of China, this note shall constitute an integral part of the above-mentioned Consular Convention and shall come into effect simultaneously with the Consular Convention. At that time, the Annex on Practical Arrangements to the Agreement between the Government of the United States of America and the Government of the People's Republic of China on the Mutual Establishment of Consular Relations and the Opening of Consulates General, signed on January 31, 1979[1] will cease to be in effect.

Accept, Excellency the renewed assurances of my highest consideration.

[Signature]

Beijing No. 80/051

Excellency:

I have the honor to acknowledge receipt of your Note dated today, the contents of which follow:

[For the English language text, see pp. 3042-3044.]

I have the honor to confirm the above contents on behalf of the Government of the People’s Republic of China.

With my highest considerations.

Respectfully,

Chai Zemin
Plenipotentiary Ambassador
of the People’s Republic
of China

His Excellency
Mr. Edmund Muskie,
Secretary of State of the
United States of America
The American Embassy to the Chinese Ministry of Foreign Affairs

Note No. 24

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the People's Republic of China and has the honor to acknowledge receipt of the Ministry's Note Number 27, dated January 17, 1981, the text of which is as follows:

"(81) Bu Ling Er Zi No. 27.
Embassy of the United States of America in China: The Ministry of Foreign Affairs of the People's Republic of China presents its compliments to the Embassy of the United States of America and has the honor to refer to two discrepancies that appear in the Chinese and English texts of the Consular Convention between the People's Republic of China and the United States of America. Both sides agree to change the English text of the above-mentioned convention as follows:

1) The first line in the preamble is changed from "the Government of the United States of America and the Government of the People's Republic of China" to "the United States of America and the People's Republic of China."

2) The signature line at the end of the Convention is changed from "for the Government of the United States of America" and "for the Government of the People's Republic of China" to "for the United States of America" and "for the People's Republic of China."
If the Embassy by return note confirms the above on behalf of the Government of the United States of America, this note and the Embassy's note in reply will constitute an agreement modifying the above-mentioned Consular Convention and will come into effect at the same time as the Consular Convention.

The Embassy confirms its agreement to the above note, and avails itself of the opportunity to renew to the Ministry assurances of its highest consideration.

Embassy of the United States of America
Beijing, January 17, 1981
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