

Note — As a result of the many "carriers" or "handlers" involved in a shipment, the Department is unable to assume any responsibility for delays in handling, misdirection, loss or damage of personal mail. Also, because of the extensive volume of departmental mail, it is only possible to maintain records of personal parcels and registered mail.

2.4 Diplomatic Privileges and Immunities

History

The practice of maintaining diplomatic relations and sending representatives to other states goes far back in history. Rules of protocol varied from one country to another — they still do — but diplomatic representatives were always accorded certain privileges and immunities. It has been a generally accepted principle that diplomatic representatives needed security of their persons, homes and official papers in order to carry out the functions that both the sending State and the receiving State had agreed they should perform.

Diplomatic functions traditionally consisted mainly in observing and reporting on the conditions and developments in the receiving State; and protecting in the receiving State the interests of the sending State, for example; defending its policies, negotiating with the Government of the receiving State etc. Given that governments in the course of history frequently did not appreciate these activities even though they were quite normal, it is easy to see why some form of protection was needed for the persons carrying out diplomatic functions. Over time, the same privileges and immunities were also extended to the families of diplomats. Eventually, these principles were standardized throughout the world and given the force of law in the Vienna Convention on Diplomatic Relations which was concluded in Vienna on April 18, 1961. It was signed by Canada in February 1962 and entered into force in Canada on June 25, 1966.

Consular representatives were traditionally considered as quite different from diplomats. Historically, consular functions consisted of assisting in the resolution of problems involving the consul's own citizens present in the receiving State for business or other reasons, issuing travel documents etc. These were held to be activities not warranting special privileges or immunities. As consular functions became more complex, sending States came to realize that at least a limited degree of protection was necessary for their consuls. Beginning with bilateral agreements between countries, the privileges and immunities accorded to consular representatives were also eventually standardized throughout the world. The Vienna Convention on Consular Relations was concluded in Vienna on April 24, 1963 and signed by Canada on July 18, 1974. It entered into force for Canada on August 17, 1974.

Diplomatic Immunity: What Does It Mean?

Briefly, it means that you, as the diplomatic agent, and all members of your family who are with you in the receiving State have total immunity from criminal, civil, and administrative jurisdiction of the receiving State. You may not be detained or arrested or subject to body search, you may not be prosecuted and may not be required to give evidence as a witness. Furthermore, your private residence cannot be entered without your prior permission, and your car cannot be searched without your permission. However, your immunity does not mean that the authorities of the receiving State cannot stop you for a traffic violation, or to interrupt a criminal activity, (for example, apprehend a shoplifter, prevent an obviously drunk person from continuing to drive a car), nor does it mean that they may not ask you for identification to prove your diplomatic status. You are urged to remember at all times that as a person who enjoys immunity you have "... a special duty to respect the laws and regulations of the receiving State..." (Quote from the Vienna Convention on Diplomatic Relations, Article 41). Diplomatic agents also have comprehensive immunity from civil and administrative jurisdiction, with three exceptions: actions connected with real property in the receiving State; actions where the diplomat is an executor or beneficiary of an estate in the receiving State; and actions relating to professional or commercial activities engaged in outside the scope of official functions.

The Department has recently adopted a policy of seeking diplomatic accreditation at the rank of attaché in the receiving State for all members of the home-based administrative and technical staff. In the cases where the receiving State has agreed, they have diplomatic status. In the event a receiving State does not agree, members of the administrative and technical staff and their families enjoy immunity from criminal jurisdiction, but immunity from civil and administrative jurisdiction is limited to actions performed in the course of their official functions. Since dependants are not considered to have any "official functions" (at least as far as the drafters of the Vienna Convention were concerned) they do not enjoy any immunity from civil and administrative jurisdiction in the receiving State.