

AGREEMENT ON

CONSULAR RELATIONS

BETWEEN

NEW ZEALAND

AND

THE PEOPLE'S REPUBLIC OF CHINA

**AGREEMENT ON CONSULAR RELATIONS BETWEEN
NEW ZEALAND AND THE PEOPLE'S REPUBLIC OF CHINA**

New Zealand and the People's Republic of China (hereafter referred to as the "Parties")

Desiring to develop further their consular relations in order to facilitate the protection of the rights and interests of their nations and nationals, and desiring to promote friendly relations and cooperation between the two countries,

Have decided to conclude the present Consular Agreement and have agreed as follows:

ARTICLE 1

Definitions

For the purposes of this Agreement the following expressions shall have the meanings given to them below:

- (a) "national of the sending State" means any natural person who is a citizen of the sending State, and, when applicable, also any juridical person of the sending State;
- (b) "consular officer" means any person including the head of a consular post entrusted in that capacity with the exercise of consular functions;
- (c) "consular post" means any consulate-general, consulate, vice-consulate or consular agency of the sending State;
- (d) "vessel of the sending State" means any vessel registered in the sending State pursuant to its law, excluding military vessels;
- (e) "aircraft of the sending State" means any aircraft registered in the sending State and bearing that State's registration marks, or any aircraft with one or more of the following characteristics: it is painted in the livery of an airline of the sending State; it is operated in accordance with certification issued by the civil aviation authority of the sending State; it uses a flight number which contains the designator code of an airline of the sending

State; or it uses the call-sign of an airline of the sending State. Military aircraft are excluded;

- (f) “law” means, for New Zealand, the law of New Zealand; and for the People’s Republic of China, all laws, administrative decrees and regulations having the effect of law of the State, provinces, autonomous regions, municipalities directly under the Central Government and other localities, and ordinances and subordinate legislation of the Hong Kong Special Administrative Region of the People’s Republic of China and the laws and regulations of the Macao Special Administrative Region of the People’s Republic of China.

ARTICLE 2

Notification to the Receiving State of Appointments, Arrivals and Departures

The Ministry for Foreign Affairs of the receiving State or the appropriate authority designated by that Ministry shall be notified in writing as soon as possible of:

- (a) the full name and rank of a member of a consular post, the date of his or her arrival and final departure or the termination of his or her functions, as well as any change of his or her status in the course of his or her service with the consular post;
- (b) the full name, nationality and date of arrival and final departure of any person belonging to the family of a member of the consular post forming part of his or her household and, where appropriate, the fact that a person becomes or ceases to form part of that household;
- (c) the full name, nationality, function and date of the arrival and final departure of members of the private staff of the consular post and, where appropriate, the fact that such a person’s service has been terminated; and
- (d) the engagement and discharge of persons resident in, but not nationals of, the receiving State as members of a consular post or as members of the private staff of the consular post entitled to certain limited privileges and immunities.

ARTICLE 3

Facilities for the Work of the Consular Post

- 1 The receiving State shall accord full facilities for the performance of the functions of the consular post.
- 2 The receiving State shall treat members of a consular post with due respect and take appropriate measures to facilitate the smooth performance of functions by such members.

ARTICLE 4

Acquisition of Consular Premises and Residences

- 1 To the extent permitted by the law of the receiving State, the sending State or its representative shall have the right to:
 - (a) purchase, lease or acquire in any other way a building or a part of a building and the land ancillary thereto for use as the consular premises and the residences of the members of the consular post, excluding the residences of those members who are nationals or permanent residents of the receiving State; and
 - (b) construct or improve buildings on the land acquired.
- 2 The receiving State shall assist the sending State to acquire consular premises and, when necessary, to acquire appropriate residences for members of the consular post.
- 3 In the exercise of the rights provided for in paragraph 1 of this Article, the sending State or its representative shall comply with the law of the receiving State concerning land, construction and city planning.

ARTICLE 5

General Consular Functions

Consular functions include:

- (a) protecting and securing the rights and interests of the sending State and those of its nationals;

- (b) furthering the development of economic, trade, scientific and technological, cultural and educational relations between the sending State and the receiving State, and otherwise promoting their friendly relations and cooperation;
- (c) ascertaining, by all lawful means, the conditions of the receiving State in the economic, trade, scientific, technological, cultural, educational and other fields and reporting thereon to the Government of the sending State; and
- (d) performing any other functions authorised by the sending State which are not prohibited by the law of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

ARTICLE 6

Applications Pertaining to Nationality and Civil Registration

- 1 Consular functions pertaining to nationality and civil registration include:
 - (a) receiving applications pertaining to citizenship of the sending State;
 - (b) recording or registering nationals of the sending State;
 - (c) registering, or facilitating the registration of, the births and deaths of the nationals of the sending State; and
 - (d) registering, or facilitating the registration of, marriages between nationals of the sending State and issuing appropriate documentation, or providing guidance to nationals of the sending State.
- 2 The provisions of paragraph 1 of this Article shall not exempt the persons concerned from the obligation to observe the law of the receiving State.

ARTICLE 7

Issue of Passports and Visas

- 1 Consular functions pertaining to the issue of passports and visas include:
 - (a) Issuing, or accepting applications for the issue of, passports and other travel documents to the nationals of the sending State, and endorsing or invalidating the said passports or documents; and
 - (b) Issuing, or accepting applications for the issue of, visas to persons who are to travel to or through the sending State, and endorsing or invalidating the said visas.

- 2 As property of the government of the sending State, the passports and other travel documents issued by the authorities of the sending State coming into the possession of the authorities of the receiving State, other than those held for purely temporary purposes, shall be returned promptly to the authorities of the sending State.

ARTICLE 8

Notarisation and Authentication

- 1 Consular functions pertaining to notarisation and authentication include:
 - (a) authenticating signatures and seals on documents of a person of any nationality for use in the sending State upon the request of that person;
 - (b) drawing up or authenticating documents of a national of the sending State for use outside the sending State upon the request of that national;
 - (c) translating documents into the official language of the sending State or of the receiving State and certifying that the translation is in conformity with the original;
 - (d) carrying out other notarial functions which are authorised by the sending State, and to which no objection is taken by the receiving State; and

- (e) authenticating signatures and seals on documents issued by the authorities concerned of the sending State or of the receiving State.
- 2 When used in the receiving State, the documents drawn up, certified or authenticated by the consular post in accordance with the law of the receiving State shall have the same validity and effect as the documents drawn up, certified or authenticated by the competent authorities of the receiving State.
- 3 A consular officer shall be entitled to receive or take into temporary custody the certificates and documents of a national of the sending State provided that this is not incompatible with the law of the receiving State.

ARTICLE 9

Transmission of Judicial and Extra-judicial Documents

Consular functions include transmission of judicial and extra-judicial documents in accordance with international agreements in force between both Parties or, in the absence of such international agreements, in any other manner compatible with the law of the receiving State.

ARTICLE 10

Facilitation of Travel

- 1 The Parties agree to facilitate travel between the two States of a person who may have a claim simultaneously to the nationality of New Zealand and of the People's Republic of China. However, this does not imply that the People's Republic of China recognises dual nationality. Exit formalities and documentation of that person shall be handled in accordance with the law of the State in which the person customarily resides. Entry formalities and documentation shall be handled in accordance with the law of the State of destination.
- 2 If judicial or administrative proceedings prevent a national of the sending State from leaving the receiving State within the period of validity of his or her visa and documentation, that national shall not lose his or her right to consular access and protection by the sending State. That national shall be permitted to leave the receiving State without having to obtain additional documentation from the receiving State other than exit documentation as required under the law of the receiving State.

- 3 A national of the sending State entering the receiving State with valid travel documents of the sending State shall, during the period for which his or her status has been accorded on a limited basis by visa or lawful visa-free entry, be considered as a national of the sending State by the appropriate authorities of the receiving State with a view to ensuring consular access and protection by the sending State.

ARTICLE 11

Notification of Detention and Arrest and the Right to Visit

- 1 If a national of the sending State is detained, arrested or deprived of freedom by any other means in the consular district by the competent authorities of the receiving State, then, unless it is contrary to the law of the receiving State, the said authorities shall, without delay and in any event within three days, notify the consular post of the fact of the detention or arrest and the reasons for which the national has been arrested, detained or deprived of freedom by any means. If it is not possible to notify without delay the consular post of the sending State because of communication problems, the competent authorities of the receiving State shall provide notification as soon as possible.
- 2 A consular officer shall be entitled to visit a national of the sending State who is under detention, arrest or imprisonment pursuant to a judgment or deprived of freedom by any other means, to converse or communicate with him or her and to arrange legal assistance for him or her. The competent authorities of the receiving State shall allow a consular officer to visit the said national as soon as possible and, at the latest, within two days of notifying the consular post of his or her arrest or detention under paragraph 1 of this Article. These 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. Nevertheless, consular officers shall refrain from taking action if the national who is under detention, arrest, imprisonment pursuant to a judgment or deprived of freedom by any other means expressly opposes such action.
- 3 In the case of a trial or other legal proceedings against a national of the sending State in the receiving State, the appropriate authorities shall, at the request of the consular post, unless the national expressly requests in writing that the consular post should not be informed, make available to the consular post information on the charges against that national. A consular officer shall be permitted to attend the trial or other legal proceedings, subject to the law of the receiving State.

- 4 Any correspondence or telephone messages between the consular post and the person shall be forwarded to the addressee by the competent authorities of the receiving State without delay.
- 5 In the case of a trial or other legal proceedings against a national of the sending State, the appropriate authorities of the receiving State shall make available adequate interpretation to that national when necessary.
- 6 The competent authorities of the receiving State shall without delay inform a national of the sending State who is detained, arrested, imprisoned or deprived of freedom by any other means of his or her rights under this Article.
- 7 The rights referred to in this Article shall be exercised in conformity with the law of the receiving State, provided however, that the said law must enable full effect to be given to the purposes for which the rights accorded under this Article are intended.

ARTICLE 12

Assistance to Nationals of the Sending State

- 1 A consular officer shall be entitled to:
 - (a) communicate and meet with any national of the sending State in the consular district, and the receiving State shall neither restrict communication between nationals of the sending State and a consular post nor restrict their access to the consular post;
 - (b) ascertain conditions of life and work of a national of the sending State in the receiving State and provide such a national with necessary assistance;
 - (c) request the competent authorities of the receiving State to ascertain the whereabouts of a national of the sending State, and the competent authorities of the receiving State shall do everything lawful and reasonable to provide the relevant information; and
 - (d) receive and take into temporary custody money or valuables of a national of the sending State in accordance with the law of the receiving State.
- 2 In case a national of the sending State is unable, at the proper time, to defend his or her own rights and interests, a consular officer may

represent him or her before the court or other competent authorities of the receiving State or arrange for him or her an appropriate representative in accordance with the law of the receiving State until he or she designates his or her own representative or is able to assume the defence of his or her own rights and interests.

ARTICLE 13

Notification of Deaths

Upon learning of the death of a national of the sending State in the receiving State, the competent authorities of the receiving State shall inform the consular post without delay and provide upon the request of the consular post a death certificate or a copy of any other document certifying the death.

ARTICLE 14

Functions Concerning Estates

- 1 Upon learning that a deceased national of the sending State has left an estate in the receiving State and there is no heir or testamentary executor in the receiving State, the competent authorities of the receiving State shall promptly inform the consular post.
- 2 A consular officer shall be entitled to be present when an estate as referred to in paragraph 1 of this Article is being inventoried and sealed by the competent authorities of the receiving State.
- 3 If a national of the sending State as an heir or legatee is entitled to inherit or receive an estate or bequeathed gift of a deceased of any nationality in the receiving State and if the competent authorities of the receiving State become aware such a person is not in the territory of the receiving State, the competent authorities of the receiving State shall inform the consular post of any information which may come to their attention concerning such inheritance or reception of estate or bequeathed gift by the said person.
- 4 In case a national of the sending State has or claims to have a right to inherit an estate in the receiving State but neither he or she nor his or her representative is able to be present at the inheritance proceedings, a consular officer or his or her representative may represent the national before the court or other competent authorities of the receiving State.

- 5 A consular officer shall be entitled, on behalf of a national of the sending State who is not a permanent resident in the receiving State, to receive for transmission to that national any estate or bequeathed gift in the receiving State, which is due to that national.
- 6 If a national of the sending State who is not a permanent resident in the receiving State dies during a temporary stay in or transit through the receiving State, and if there is no relative or representative of his or hers in the receiving State, a consular officer shall be entitled immediately to take into provisional custody all the documents, money and personal effects which were with the deceased national for transmission to his or her heir, testamentary executor or other persons authorised to receive the assets.
- 7 A consular officer shall comply with the law of the receiving State in performing his or her functions as referred to in paragraphs 4, 5 and 6 of this Article.

ARTICLE 15

Guardianship and Trusteeship

- 1 The competent authorities of the receiving State shall notify the consular post when a guardian or trustee is required for a national, including an under-aged national, of the sending State in the consular district who has no capacity or limited capacity to act on his or her own behalf.
- 2 A consular officer shall be entitled to protect, to the extent permitted by the law of the receiving State, the rights and interests of a national, including an under-aged national, of the sending State who has no capacity or limited capacity to act on his or her own behalf and, when necessary, to recommend or designate a guardian or trustee to the person concerned and supervise the activities pertaining to guardianship or trusteeship.

ARTICLE 16

Assistance to Vessels of the Sending State

- 1 A consular officer shall be entitled to render assistance to vessels of the sending State which are in the inland or territorial waters of the receiving State, and to their master and crew members, and also:

- (a) to board a vessel when free access to shore has been granted to the vessel, question the master and any member of the crew and receive reports on the vessel, its cargo and voyage;
 - (b) without prejudice to the powers of the authorities of the receiving State, to investigate any incident which occurred during the voyage;
 - (c) to settle disputes between master and crew, including disputes about wages and service contracts;
 - (d) to receive visits from the master or any member of the crew, and, when necessary, make arrangements for his or her medical treatment or return home;
 - (e) to receive, examine, sign, draw up, authenticate or witness documents with regard to a vessel; and
 - (f) to handle other matters relating to a vessel, which are entrusted by the competent authorities of the sending State.
- 2 The master and any member of the crew may contact a consular officer. They may go to the consular post on the premise of no contravention of the law of the receiving State concerning the administration of ports and aliens.

ARTICLE 17

Protection in Case of Compulsory Actions against a Vessel of the Sending State

- 1 In case the courts or other competent authorities of the receiving State intend to take compulsory actions or start an official investigation with regard to a vessel or aboard a vessel of the sending State, those authorities shall notify the consular post in advance so as to enable a consular officer or his or her representative to be present when actions are taken. If the urgency or sensitivity of the matter prevents prior notification, the competent authorities of the receiving State shall notify the consular post immediately after the actions have been taken and promptly provide the consular post with full relevant particulars of the said actions upon the request of a consular officer.

- 2 The provisions of paragraph 1 of this Article shall apply to similar actions taken on shore by the competent authorities of the receiving State against the master of a vessel or any member of the crew.
- 3 The provisions of paragraphs 1 and 2 of this Article shall not apply to any routine inspection carried out by the competent authorities of the receiving State including those relating to customs, administration of ports, quarantine and border checks, nor to measures taken by such authorities to ensure the safety of navigation, or to prevent or respond to marine pollution incidents.
- 4 Except upon the request or with the consent of the master of a vessel of the sending State or of a consular officer, the competent authorities of the receiving State shall not interfere in the internal affairs of the vessel, when the peace, security and public order of the receiving State are not violated.

ARTICLE 18

Assistance to Wrecked Vessels of the Sending State

- 1 If a vessel of the sending State suffers an accident in the inland or territorial waters of the receiving State, the competent authorities of the receiving State shall notify without delay the consular post and inform it of the measures taken for rescuing the persons aboard, the vessel and its cargo and other properties.
- 2 A consular officer shall be entitled to take measures, to render assistance to any wrecked vessel of the sending State and its crew and passengers and to request assistance from the authorities of the receiving State in this connection.
- 3 If a wrecked vessel of the sending State or its articles or cargo is found near the coast of, or is brought into a port of the receiving State and neither the master nor the owner of the vessel, nor any agent of the vessel's company or of its insurance company is present or is in a position to take measures for their preservation or disposal, the competent authorities of the receiving State shall inform the consular post as promptly as possible. A consular officer may take appropriate measures on behalf of the owner of the vessel.
- 4 A wrecked vessel of the sending State and its cargo and articles shall not be subjected to customs duties or other similar charges by the receiving

State provided that they are not delivered for sale or for use in the receiving State.

ARTICLE 19

Aircraft of the Sending State

The provisions of this Agreement concerning vessels of the sending State shall apply, as appropriate, to aircraft of the sending State in the territory of the receiving State, provided that such application does not contravene the provisions of bilateral treaties in force between the sending State and the receiving State or of multilateral treaties to which both States are signatories, as well as the provisions of any air services agreements signed between New Zealand and the Hong Kong and Macao Special Administrative Regions of the People's Republic of China.

ARTICLE 20

Consular Fees and Charges

- 1 A consular post may levy, in the territory of the receiving State, fees and charges for consular acts in accordance with the law of the sending State.
- 2 The fees and charges referred to in paragraph 1 of this Article and their receipts shall be exempt from all dues and taxes in the receiving State.
- 3 The receiving State shall permit a consular post to remit to the sending State the income from the fees and charges referred to in paragraph 1 of this Article.

ARTICLE 21

Relations with other International Agreements

- 1 The parties expressly agree and acknowledge that this Agreement is made in accordance with Article 73(2) of the Convention on Consular Relations done at Vienna, 24 April 1963, and that the purpose of this Agreement is to confirm and amplify the provisions of the Vienna Convention on Consular Relations which remains in force as between them.

- 2 The Parties affirm the provisions of the Vienna Convention on Consular Relations done at Vienna, 24 April 1963, and agree that matters not explicitly raised in this Agreement shall be dealt with in accordance with that Convention.
- 3 Expressions in this Agreement shall, unless otherwise specified, have the same meaning as those given to them in the Vienna Convention on Consular Relations done at Vienna, 24 April 1963.

ARTICLE 22

Application of the Agreement to the Hong Kong and Macao Special Administrative Regions

This Agreement shall apply as well to the Hong Kong Special Administrative Region of the People's Republic of China and the Macao Special Administrative Region of the People's Republic of China.

ARTICLE 23

Consultations

The Parties agree to meet from time to time for consular consultations to review the consular relationship. Either Party may also seek consultations on individual consular matters as required from time to time during any one year.

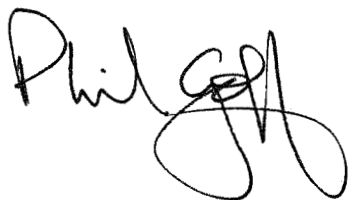
ARTICLE 24

Entry into Force and Duration

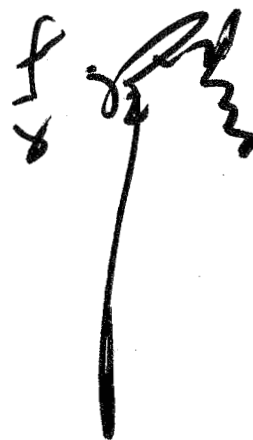
- 1 This Agreement shall take effect on the thirty-first day after the exchange of notes by which the two Parties notify each other of the completion of the procedures required by their domestic laws for giving effect to this Agreement.
- 2 This Agreement shall remain in force until the expiration of six months from the date on which one of the Parties gives to the other Party written notification of its intention to terminate this Agreement.

Done in *Auckland* on this *26th* day of *October 2003*, in duplicate in the English and Chinese languages, both texts being equally authentic.

FOR NEW ZEALAND

A handwritten signature in black ink, appearing to read "Phil Goff". The signature is fluid and cursive, with the first name "Phil" written in a larger, more prominent script than the last name "Goff".

FOR THE PEOPLE'S REPUBLIC OF CHINA

A handwritten signature in black ink, consisting of a vertical line with a large, stylized flourish at the top. The flourish includes a loop and a series of wavy lines, suggesting a stylized name or a specific signature style.