



PRACTICAL GUIDE FOR THE DIPLOMATIC CORPS ACCREDITED IN SPAIN

MADRID, 2010



GOBIERNO
DE ESPAÑA

MINISTERIO
DE ASUNTOS EXTERIORES
Y DE COOPERACIÓN

PRACTICAL GUIDE
FOR THE
DIPLOMATIC CORPS
ACCREDITED IN SPAIN

MADRID, 2010

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INTRODUCTION

The Ministry of Foreign Affairs and Cooperation has observed the rising number of new Diplomatic Missions and Consular Posts accredited in Spain, as well as the increasing number of International Agencies that establish their headquarters or open offices in our country.

In order to provide them with the utmost support and collaboration in their important mission, the Ministry's Protocol Services, under the Unit of the Introducer of Ambassadors, regularly draws up this Practical Guide for the Diplomatic Corps accredited in Spain.

The information in this Guide, which is not exhaustive or legally binding, aims to provide Diplomatic and Consular Representations, and Representations of International Agencies, with general guidance on Spanish practice and on administrative procedures to be conducted with this Ministry and other Public Administrations in their most frequent official activities; and, also, to facilitate the initial relocation to Spain of accredited staff and their dependent family members, as well as to acquaint them with their corresponding benefits and privileges.

Its structure, divided into 16 chapters, aims to respond to the most frequently-asked questions. Moreover, each of the chapters refers to Spanish practice or the applicable regulations, and, when appropriate, to the relevant department of the Public Administration, in order to facilitate the ensuing formalities.

This updated edition includes the new developments that, since 2008, have been taking place in the aspects of most interest, such as issuing new accreditation documents, with

greater security measures and technical quality; increasing the parking facilities granted by Madrid City Council for Consulates General located in Spain's capital city; and the use of the Official VIP Lounges.

I also wish to note the favourable reception of the new e-mail address (cancillería@maec.es), basically aimed at resolving general queries on specific issues regarding the Deputy-Directorate General for Chancellery, and the usefulness of including this publication on the Ministry's website (www.maec.es); in this regard, we intend to revise and update information regularly.

Finally, I wish to reiterate the spirit of cooperation with Embassies, Consulates and International Agencies which guides the action of the two Deputy-Directorates within this Unit—that for Official Visits and Trips, Protocol and Orders, and that for Chancellery—both in relation with the issues addressed in this publication and with any other issue of interest submitted for consideration.

Madrid, September 2010.

Javier Vallauré
INTRODUCER OF AMBASSADORS

1. HEADS OF MISSION

1.1 REQUEST FOR AGRÉMENT

Spanish practice, in line with international tradition in this sphere, requires the relevant Head of Mission to personally present to the Introducer of Ambassadors of the Ministry of Foreign Affairs and Cooperation the request for the necessary agrément to be granted by the Spanish Government for the new Ambassador proposed. This is in order to comply with traditional diplomatic practice, whereby great importance is attached to this procedure, as well as to its sensitive and confidential nature, since it involves the replacement of persons, such as Ambassadors Extraordinary and Plenipotentiary, who enjoy the highest degree of trust from the Head of State they are appointed to represent. A detailed curriculum vitae of the candidate for whom the agrément is requested should be attached to the request.

Alternatively, pursuant to international practice, the agrément for a Head of Mission to be accredited to Spain may be requested by the relevant Ministry of Foreign Affairs to the Embassy of Spain in the capital city of the requesting State.

Once the agrément has been granted, this is officially communicated to the Head of Mission in Madrid of the sending State, if requested by the latter, who shall be summoned by the Introducer of Ambassadors for this purpose. Alternatively, the official communication is effected via the Ambassador of Spain to the sending country, if the request was submitted through this channel.

1.2. ARRIVAL IN MADRID

1.2.1. **Notice of arrival**

The Ministry of Foreign Affairs and Cooperation shall be informed, by means of a Note Verbale, of the day and time of arrival, means of transport and accompanying persons. In the same Note Verbale, a date to submit the Required Copies of the Letters of Credence shall be requested.

1.2.2. **Arrival and reception**

If arrival at Madrid occurs:

a) *By aircraft*: The Head of Mission shall be received by a senior official of the Protocol Service of the Ministry of Foreign Affairs and Cooperation and by the *Chargé d’Affaires ad interim*, who shall accompany him/her to the VIP Lounge at the airport.

b) *By train*: The Head of Mission shall be received, on descending from the train, in a similar manner to that described above.

If the Ambassador’s arrival takes place on a working day between 9.00 a.m. and 7.00 p.m., he/she shall be received as described above. If arrival takes place outside these hours or on Saturday, Sunday or a public holiday, or if he/she arrives by car, a senior Protocol Official shall visit him/her, at the Embassy, on the first working day following arrival, to present compliments.

1.2.3. **Transfer of the Head of Mission to the residence or hotel**

a) If the Head of Mission’s residence is in Madrid, the Embassy shall provide the vehicles necessary for transfer;

b) If the Head of Mission’s residence is not in Madrid, the Protocol Services shall arrange transport and may also effect the relevant hotel reservations, if the Ambassador so requests, always at the Embassy’s expense.

1.3. PRESENTATION OF LETTERS OF CREDENCE AND SUBMISSION OF REQUIRED COPIES

(See leaflet entitled «*Letters of Credence*».)

1.4. TERMINATION OF FUNCTIONS

Upon being officially informed of termination of functions and, in any case, one month prior to effective departure from the country, the Head of Mission may address the Unit of the Introducer of Ambassadors, by means of a Note Verbale or Signed Note, to request farewell audiences with Their Majesties the King and Queen (it is customary for the Ambassador to attend this audience accompanied by his/her spouse), the Minister of Foreign Affairs and Cooperation and the senior officials of this Ministry, and any other authority deemed appropriate.

The Head of Mission, before departure, should appoint, by Note Verbale or Signed Note, addressed to the Unit of the Introducer of Ambassadors, the Diplomatic Agent who will remain in charge of the Mission as *Chargé d’Affaires ad interim* until the successor arrives.

Otherwise, the appointment of the *Chargé d’Affaires* shall be effected by the Ministry of Foreign Affairs of the sending State in accordance with the formula described in paragraph 2.3.2.

The Diplomatic Mission shall inform the Office of the Introducer of Ambassadors of the date of termination of functions of the Head of Mission, as well as the day, means of transport and hour of departure in order to bid him/her farewell.

When leaving, and within a period of grace not exceeding 90 days from the date of termination of functions, the Head of Mission shall return his/her ID document and accreditation, together with those of his/her family members, to the Deputy-Directorate General for Chancellery of the Ministry of Foreign Affairs and Cooperation. Likewise, the documentation and diplomatic number plates of his/her vehicle or vehicles shall be returned, and their licences cancelled.

1.5. HEAD OF MISSION ACCREDITED TO THE MINISTRY OF FOREIGN AFFAIRS AND COOPERATION

If the Head of Mission is a *Chargé d’Affaires* accredited before the Minister of Foreign Affairs and Cooperation (Article 14c of the Vienna Convention on Diplomatic Relations), this Ministry shall be informed, as indicated in paragraph 1.2.1, of his/her arrival in Madrid, with the exception that the same Note Verbale informing of the date and time of arrival and of accompanying persons shall include a request for a day and time when the Appointment Letters may be presented.

2. STAFF MEMBERS OF THE MISSION

2.1. CATEGORIES

The Vienna Convention on Diplomatic Relations of 18 April 1961 defines, in Article 1c, the staff members of a diplomatic mission as the members of the diplomatic staff, the administrative and technical staff and the service staff of the Mission.

2.1.1. Diplomatic Staff

Diplomatic Staff shall be construed as comprising the staff members of the Diplomatic Mission having diplomatic rank.

2.1.2. Administrative and Technical Staff

Administrative and Technical Staff shall be construed as comprising staff employed in the administrative and technical service of the Mission

2.1.3. Service Staff

Service Staff shall be construed as comprising personnel employed in the domestic service of the Mission (Chancellery and Head of Mission's residence).

2.2. ACCREDITATION AND DOCUMENTATION

2.2.1. Accreditation Visa

Members of Missions of countries that have not signed an agreement abolishing first-entry visas for accreditation purposes shall request the appropriate visa for themselves and their family members.

2.2.2. Arrival. Notification to the Ministry of Foreign Affairs and Cooperation

Upon arrival of a new member of a Mission to Spain, his/her Embassy shall so inform the Deputy-Directorate General for Chancellery by sending:

- A Note Verbale for each Member and dependent family members;
- A duly completed accreditation form, one for the Member and another for each dependent family member. This form must be signed and sealed by the Head of Mission and must comply with the provisions contained in Circular Note Verbale 20/7.2, of 13 November 2006. Failure to comply with these requirements will prevent the accreditation from being effected, and in such cases, the form will be returned for due completion.
- Curriculum vitae (only for staff with diplomatic status).
- Two recent colour photographs, passport-size, with a white background, the head uncovered, and not wearing dark glasses.
- Photocopy of the passport (see 2.2.4), including the page where the visa appears, if applicable, and/or entry stamp.

Once the accreditation has been accepted, the Embassy concerned will be informed by means of a Note Verbale, to which the ID document and accreditation will be attached. (see 2.2.6.).

2.2.3. Types of passport

Spanish practice requires the following types of passports for the staff of Diplomatic Missions accredited to Spain:

a) *Head of Mission and Diplomatic Staff:*

Diplomatic passport.

b) *Administrative and Technical Staff:*

Diplomatic, official or service passport

c) *Service personnel:*

Official, service or ordinary passport

2.2.4. Nationality of accredited staff

Spanish practice requires that diplomatic, administrative and technical staff of the Mission must possess the nationality of the sending State and not be legally resident in Spain.

Should the person concerned be permanently resident in Spain prior to his/her appointment, in order to be accepted and accredited by the Ministry of Foreign Affairs and Cooperation, prior and express renunciation of the Spanish residence permit must be made.

Should he/she be a national of a country that requires an accreditation visa, both the person to be accredited and his/her dependent family members must obtain the visa prior to acceptance, as well as the passport corresponding to their accreditation status.

Service staff members of the Mission may possess the nationality either of the sending State or of a third State, but never that of the receiving State.

2.2.5. Entry into and exit from Spain

Staff members of Diplomatic Missions shall only require a first-entry visa for accreditation purposes, except when a waiver agreement exists. Once the relevant ID card and accreditation have been issued, they may enter and leave Spanish territory by simply showing this card, together with their passport, provided neither has expired.

(Circular Note Verbale 29/7, of 21 August 1997).

2.2.6. Accreditation documents

The Ministry of Foreign Affairs and Cooperation shall provide an ID card for all accredited staff and their dependent family members.

Circular Note Verbale of this Ministry, no. 14/7, of 15 June 2010, sets forth the characteristics of ID and accreditation documents.

2.2.7. **Dependent family members**

The following are deemed dependent family members of Members of the Mission

- a) The spouse or legally registered or recognized partner
- b) Unmarried children until the year they turn 23.
- c) Relatives in the first degree of the ascending line, by either blood or marriage, provided they live with the accredited Member and depend economically on him/her.

When a registered partner of a Member of a Mission, Consular Post or International Agency needs to be accredited, this person must possess a passport similar to that of the accredited Member (diplomatic, service or official passport), in which there is clear indication of the relation with the accredited Member, using the expression «registered partner» or a similar one.

If the above were not possible, a certified document issued by an official civil partnership registry in the accrediting country, in which the relationship is formally acknowledged, must be provided.

The year in which unmarried children of accredited staff turn 23 during their stay in Spain, continue to be economically dependent on the Member, and still live in the family home, the Deputy-Directorate General for Chancellery shall replace their ID document and issue a new one, enabling them to stay in Spanish territory until the end of the mission of the Member on whom they are dependent. This document does not confer any type of privilege or immunity and does not permit the holder to engage in any gainful employment whatsoever.

If the person concerned wishes to engage in gainful employment, the above document must be returned immediately to this Ministry and the necessary work authorization obtained, pursuant to Organic Law 4/2000, of 11 January, on the Rights and Freedoms of Aliens in Spain and Their Social Integration (*Official Spanish Gazette* —BOE— no. 10, of 12 January), which has been subsequently developed, most recently by Organic Law 2/2009, of 11 December (BOE no. 299, of 12 December).

In the event of relocation to Spain of children of accredited staff, aged over 23 or who are to turn 23 during the calendar year, to

live in the family home, unless they are nationals of a Member State of the European Union or the European Economic Area, they will not be accredited by the Ministry of Foreign Affairs and Cooperation and must obtain, at the Spanish Consulate or Embassy in the country of origin, a visa enabling them to obtain the corresponding aliens' residence card. This card must be requested within a month of arrival in Spain, pursuant to Spanish legislation on this matter.

(See Circular Notes Verbale 26/7, of 21 December 2006, and 6/7, of 12th March 2007.)

2.2.8. Work by spouses and dependent family members

Except in the case of citizens of countries belonging to the European Union, Spanish practice requires the conclusion of International Conventions to regulate access to gainful employment by dependent family members of accredited staff. If there is no prior bilateral Agreement or Convention recognising and establishing the terms and conditions to carry out gainful employment, no type of gainful employment whatsoever may be engaged in.

2.3. CHARGÉ D'AFFAIRES AD INTERIM

2.3.1. Appointment by the Head of Mission

When, either temporarily or permanently due to the termination of functions, a Head of Mission must leave Spanish territory, he/she must appoint, prior to departure, a *Chargé d'Affaires ad interim* who, in his/her absence, will perform the functions of Head of Mission. This appointment shall be notified to the Ministry of Foreign Affairs and Cooperation by means of a Note Verbale or Signed Note.

2.3.2. Appointment by the Ministry of Foreign Affairs of the sending State

Should the Head of Mission, on his/her departure, fail to appoint a *Chargé d'Affaires ad interim*, such an appointment shall

be effected by the Ministry of Foreign Affairs of the sending State by means of either:

- Telegram from the Minister of Foreign Affairs of the sending State addressed to his/her Spanish counterpart;
- Written notice served by the Ministry of Foreign Affairs of the sending State to the Embassy of Spain to that country.

2.3.3. Absence of the *Chargé d’Affaires ad interim* and appointment of another in lieu

In the event that the *Chargé d’Affaires ad interim* must leave Spanish territory, the appointment of another one shall be effected by the Ministry of Foreign Affairs of the sending State, using the procedure described in the preceding paragraph. In any case, the person appointed must belong to the diplomatic service, either as a Member of the Mission or sent specifically for this purpose.

2.3.4. Termination of functions

The functions of the *Chargé d’Affaires ad interim* shall cease:

- a) In the case of temporary absence of the Head of Mission, upon the latter’s return, which shall be notified to the Ministry of Foreign Affairs and Cooperation by means of a Note Verbale.
- b) In the case of definitive absence, upon the arrival and presentation of the Required Copies of the Letters of Credence by the new Head of Mission.

2.3.5. *Chargé d’Affaires ad interim* of a Diplomatic Mission with multiple accreditation

A State with a Head of Mission accredited to Spain and to another State or States and who is not resident in Madrid may establish in the latter a Diplomatic Mission headed by a *Chargé d’Affaires ad interim*.

2.4. DEFENCE ATTACHÉS

Spanish practice requires the prior granting of approval by the Ministry of Foreign Affairs and Cooperation in order to appoint Defence, Military, Naval and Air Attachés of Diplomatic Missions accredited in Madrid. In order to request this approval, the Mission concerned shall submit:

- Note Verbale requesting the approval.
- Curriculum vitae of the interested party.

Once the approval has been granted, the relevant visa should be applied for at the competent Spanish Diplomatic Mission or Consular Post in order to proceed with the accreditation (unless a visa waiver agreement is in place).

Once in Spain, the Defence, Military, Naval or Air Attaché's accreditation and documentation shall be similar to that of the other Diplomatic Agents of the Mission (see 2.2.2. and following)

Without prejudice to the visits that they may consider appropriate to pay to officials of the Ministry of Foreign Affairs and Cooperation, these Attachés should introduce themselves to the Military Attaché Service of the Defence Chief of Staff.

2.5. TERMINATION OF FUNCTIONS OF DIPLOMATIC AGENTS, ADMINISTRATIVE, TECHNICAL AND SERVICE STAFF

2.5.1. **Termination of functions of diplomatic agents**

The Diplomatic Mission shall notify by individualised Note Verbale the termination of functions of a member of staff with diplomatic rank (indicating date of effect) and shall return to the Protocol Services the corresponding identity documents and accreditation, as well as those of family members. Likewise, it shall send, within a period not exceeding 60 days from the date of termination (period of grace), the documentation and diplomatic number plates of the individual's vehicle or vehicles whose licences are to be revoked.

2.5.2. Termination of functions of administrative and technical staff

The Diplomatic Mission shall notify by individualised Note Verbale the termination of functions of a member of staff of this rank (indicating date of effect), attaching the corresponding identity documents and accreditation, as well as those of family members. Likewise, it shall send the documentation and number plates of the individual's vehicle whose licence is to be revoked, within a period not exceeding 60 days from the date of termination (period of grace).

2.5.3. Termination of functions of service staff

The Diplomatic Mission shall notify by individualised Note Verbale the termination of duties of staff of this rank (indicating date of effect) and shall attach the corresponding identity documents and accreditation.

2.6. FACILITIES GRANTED TO ACCREDITED AND DOCUMENTED STAFF MEMBERS UPON THEIR ARRIVAL AT MADRID-BARAJAS AIRPORT

By means of Circular Note Verbale No. 24/7, of 1 December 2006, the Ministry of Foreign Affairs and Cooperation informed the accredited Diplomatic Missions and International Agencies that have their headquarters or an office in Spain of the adoption of a measure which greatly facilitates access to Spain, via Madrid-Barajas Airport, to accredited staff members who have already been issued a diplomatic or consular ID card by this Ministry.

The measure consists in permitting access to the passport control area of the Airport via the channel indicated as reserved to European Community citizens, as a general rule and regardless of nationality.

This facility has considerably streamlined immigration formalities and provided accredited staff with greater ease in their foreign travel.

2.7. QUERIES TO THE DEPUTY-DIRECTORATE GENERAL FOR CHANCELLERY

By means of Circular Note Verbale No. 21/7, of 17 May 2007, the Ministry of Foreign Affairs and Cooperation informed of the implementation, by the Deputy-Directorate General for Chancellery, of a fast track for inquiries for Diplomatic Missions and International Agencies via a new e-mail address (cancilleria@maec.es) with the aim of improving the attention provided to accredited staff and to reduce the considerable number of telephone queries received every day concerning accreditations, diplomatic exemptions, VAT refunds and exemptions, number plates and driving licenses.

3. DIPLOMATIC CORPS. PRECEDENCE

3.1. DIPLOMATIC CORPS

The Diplomatic Corps in Spain is composed of the Heads of Mission and agents with diplomatic rank accredited in Spain.

3.2. DEAN OF THE DIPLOMATIC CORPS IN SPAIN

The Dean of the Diplomatic Corps in Spain is the Apostolic Nuncio of His Holiness the Pope accredited to His Majesty the King and as such, as well as representing the Diplomatic Corps accredited in Spain, he always occupies the first position amongst the Heads of Mission.

The Vice-Dean of the Diplomatic Corps shall be the most senior Head of Mission amongst those accredited to His Majesty the King.

3.3. DIPLOMATIC LIST

The Ministry of Foreign Affairs and Cooperation regularly publishes the updated List of the Diplomatic Corps accredited in Spain.

To this purpose, each Mission or Organization should, each year, send the Deputy-Directorate General for the Chancellery of this Ministry a list of Diplomatic Agents, in order of precedence (indicating marital status) and, if applicable (for Heads of Mission and Deputy Heads), the spouse's name and surname.

The updated list of accredited staff may be found at the website of the Ministry of Foreign Affairs and Cooperation: «www.maec.es».

(See Circular Note Verbale No. 6/7, of 24 April 2006).

3.4. PRECEDENCE OF HEADS OF MISSION

The date and order of presentation of the Letters of Credence to His Majesty the King shall determine the order of precedence of the Heads of Mission. In turn, precedence in the order of presentation of the Letters of Credence shall be determined by the date and order of arrival in Madrid.

In the event of simultaneous arrival of various Heads of Mission (for example, on the same aircraft), the date on which the agrément was granted shall prevail.

3.5. PRECEDENCE OF DIPLOMATIC AGENTS

The Head of Mission shall notify the order of precedence of Diplomatic Agents members of the Mission, including, on the accreditation form, in addition to the individual's rank and functions, the corresponding position on the Diplomatic List (precedence).

4. CHANGE OF CATEGORY OF ACCREDITED STAFF

Spanish practice permits changes of rank or function, provided the category remains unchanged. For instance, promotion from Second Secretary to First Secretary or change of functions of a Counsellor (from Political Affairs to Economic Affairs) within the category of Diplomatic Agents. The same consideration applies to the category of administrative and technical staff.

Nevertheless, Spanish practice does not accept changes between categories of personnel of a Diplomatic Mission; for example, the promotion of administrative and technical staff to diplomatic rank.

The same practice is observed in the consular sphere.

5. HIRED STAFF

5.1. DEFINITION

Hired staff is defined as employees, engaged in Spain by Diplomatic Missions, Consular Posts and International Agencies to carry out administrative, technical or service duties. Therefore, these employees are not deemed to be *members of the staff of the Mission* pursuant to Article 1 of the Vienna Convention on Diplomatic Relations (See 2.1).

5.2. HIRING CONDITIONS

The labour laws and regulations applicable to relations between Missions and their locally hired staff are those applicable in the receiving State. The Mission or Agency is, thus, to be construed as the «employer» for all purposes without this implying any detriment whatsoever to the privileges and immunities to which such a Representation is entitled.

By means of Circular Note Verbale No. 17/7, of 18 October 2006, this Ministry updated the information of current labour legislation in Spain, in order to facilitate compliance with the laws and regulations of the receiving State by Diplomatic Missions, Career Consular Posts and International Agencies with headquarters or offices in Spain, pursuant to the provisions of the Vienna Conventions on Diplomatic and Consular Relations and Customary International Law.

For information on the correct implementation of this legislation, the Protocol Services of the Ministry of Foreign Affairs and Cooperation recommend securing the advice of lawyers specialised in Spanish labour law.

For information purposes, the following basic requirements must be observed when hiring this type of staff:

- They must be Spanish nationals or be legally resident in Spain.
- The hiring must be effected by means of the appropriate work contract, drawn up in Spanish, complying with the other requirements set out in Spanish Labour Legislation (Royal Legislative Decree 1/1995, of 24 March, approving the Consolidated Text of the Workers Statute). Special importance is to be given to the requirements relating to the statutory minimum wage, maximum working hours, length of the working week, annual holidays and leave, disciplinary regime and causes of termination of the work contract.
- The worker must be affiliated and/or registered with the Social Security System. For this purpose, the Diplomatic Mission, Consular Post or International Agency must previously register as a «firm» and fulfil, with respect to these workers, the requirements set out in Royal Legislative Decree 1/1994, of 20 June, approving the Consolidated Text of the General Social Security Act.

In addition, the hiring of these employees shall be notified to this Ministry by means of a Note Verbale, to which the following shall be attached: the relevant form (see 2.2.2), two recent passport-size photographs, a photocopy of the document evidencing compliance with Social Security obligations and a photocopy of the Spanish National ID Card or residence permit in force.

The Deputy-Directorate General for Chancellery of this Ministry, on its part, shall take note of these hirings and shall issue a card, albeit not an official ID document to all intents and purposes, since Spanish citizens must possess a National ID Document and aliens permanently resident in Spain must possess a residence permit (Circular Note Verbale No. 14/7, of 15 June 2010).

5.3 REGISTRATION AS A FIRM WITH THE SOCIAL SECURITY ADMINISTRATION, AND AFFILIATION AND/OR REGISTRATION OF EMPLOYEES

Registration is an administrative act by which the Social Security General Treasury assigns a firm a number to identify it and to verify compliance with its obligations in relation to the corresponding Social Security Regime.

Once such registration as a «firm» has been duly effected, Diplomatic Missions, Consular Posts and International Agencies located in Spain shall notify the corresponding Social Security General Treasury office (depending on the geographic location of their headquarters) of the hirings, dismissals and variations in the data of locally hired employees who enter or leave their employment. They shall also be obliged to maintain such registration in force while the employment continues, and to effect payment of the necessary social security contributions within the due deadlines.

A Resolution of the State Secretariat for Social Security of 27 July 2006 established a new procedure enabling affiliation to the Social Security System for non-civil servant staff of Diplomatic Missions accredited in Spain.

The main features of this procedure are:

- It is applicable to Diplomatic Missions and Consular Posts of countries with which there is no bilateral Social Security Agreement, and which wish to include in Spanish Social Security their hired, non-civil servant staff (technical, administrative and service staff).
- This affiliation shall be made extensive to all non-civil servant staff of the Diplomatic Mission or Consular Post, regardless of their nationality, and shall be requested at the corresponding Provincial Directorates of the Social Security Treasury or at the Administrations thereof.
- The Diplomatic Mission or Consular Post shall be considered a «firm», shall be registered in the General Social Security System, and shall have to provide—without detriment to its

privileges and immunities—whatever collaboration is requested of it, as such, by the Spanish Administrations and Institutions.

- This affiliation and registration shall enter into effect the first day of the month following the date of application, unless another, later date is stated in the request.

Persons working exclusively in the private service of members of Diplomatic Missions and Consular Posts are regulated, with regard to Social Security, as follows:

- If they have Spanish nationality, they are fully subject to the regulations of the Spanish Social Security System.
- If they have any other nationality, they may join the Spanish Social Security System at the request of their employer.

For any other aspect not envisaged in the present Resolution, the applicable regulations shall be those of the Social Security System, provided they are not contrary to the principles of the Vienna Convention.

The Social Security website (www.seg-social.es) provides ample information on the processing of these applications, the forms to be completed and the documents that should be attached. Another website that is especially useful for information and clarification purposes is provided by the Ministry of Labour and Immigration (www.mtin.es).

Furthermore, any query related to registration as a firm, affiliation, and hirings and dismissals of employees may be raised at the Deputy-Directorate General for Affiliation and Special Procedures (Phone no.: 91.503.80.29 and fax no.: 91.503.87.03). Queries regarding contributions and collection shall be addressed to the Deputy-Directorate General for Collection (Phone no.: 91.503.80.17 and fax no.: 91.503.81.12).

If effecting the above formalities were inconvenient, the Ministry of Foreign Affairs and Cooperation suggests using the services of a specialised administrative agent (*gestoría* in Spanish), given that matters of special social relevance are involved.

5.4 LAWSUITS AT INDUSTRIAL TRIBUNALS (LABOUR MATTERS)

By means of Circular Note Verbale No. 6/7, of 1 February 1990, the Ministry of Foreign Affairs and Cooperation informed the Diplomatic Missions accredited in Spain of the tendency of Spanish law courts to affirm Spanish jurisdiction in labour matters (rulings of the Supreme Court of 10 February and 1 December 1986).

The last few years have revealed that non-compliance with labour or social security legislation, with respect to these employees, has resulted in the filing of a growing number of lawsuits which have been admitted to consideration by industrial tribunals, and a substantial increase in cases where the court has ruled against the defendant, leading to forced execution of such rulings, in the event of non-voluntary compliance therewith.

In view of the above, and to prevent situations that may perturb the normal functioning of the Missions, to preserve their public image and to safeguard the legitimate interests of the individuals involved, the Ministry of Foreign Affairs and Cooperation offers the following recommendations to Diplomatic Missions and Consular Posts:

- Scrupulous compliance with Spanish legislation in this field and others, pursuant to the provisions of Article 41 of the Vienna Convention on Diplomatic Relations and of Article 55 of the Vienna Convention on Consular Relations.
- Formal appearance at the proceedings, with legal representation by lawyers making use of appropriate means of defence before the law courts, so that the Court may be made aware of and evaluates the defendant's point of view prior to handing down a ruling. In this sphere, the Ministry of Foreign Affairs and Cooperation is willing to convey to the Court involved, through diplomatic channels, the allegations deemed convenient, provided an express request is made in this respect.
- Use of the appeals that the laws permit.
- Voluntary compliance with final rulings.

6. PRIVATE SERVANTS/STAFF

6.1. DEFINITION

The Vienna Convention on Diplomatic Relations defines, in Article 1.h, a *private servant* as a person who is in the domestic service of a member of the Mission and who is not an employee of the sending State.

Furthermore, the Vienna Convention on Consular Relations, in Article 1.i, terms these persons *members of the private staff* and defines them as persons who are employed exclusively in the private service of a member of the Consular Post.

Consequently, *private servants* are not deemed members of the staff of the Mission (Article 1c of the Vienna Convention on Diplomatic Relations) nor are *members of the private staff* deemed members of the Consular Post (Article 1g of the Vienna Convention on Consular Relations).

6.2. HIRING/ACCREDITATION

By means of Circular Note Verbale No. 17/7, of 18 October 2006, the Ministry of Foreign Affairs and Cooperation reminded Diplomatic Missions and International Agencies of the two possibilities for the hiring/accreditation of this type of staff.

Persons hired in Spain in the private service of staff members with diplomatic rank at Embassies, Consular Posts and International Agencies with headquarters or offices in Spain shall be considered domestic servants for labour law purposes, their contracts shall be regulated by Spanish labour laws and regulations, and the derived contractual obligations, both under labour law and Social Security regulations, shall be the exclusive responsibility of the staff member of the Mission, Consular Post or International Agency hiring the

personal servant and for whom this servant works, on a personal basis and in his/her capacity as an employer.

In this case, the domestic servant must be Spanish or legally resident in Spain

Exceptionally, in the case of domestic servants accompanying a diplomatic agent at the time of taking up a new post, an accreditation visa for domestic servants is required, regardless of nationality. The request for such a visa should be accompanied by an employment commitment (the aforesaid Note Verbale provides a model), signed by both parties, bearing in mind that, pursuant to the provisions of Article 33 of the Vienna Convention on Diplomatic Relations and of Article 48 of the Vienna Convention on Consular Relations, the work relationship shall be governed by Spanish laws and regulations on Labour and Social Security matters, unless, in the case of the latter, evidence is provided that the servant is covered by the social security system of the sending State or a third State.

Obviously, this exemption from compulsory compliance with Spanish Social Security legislation does not preclude voluntary participation in the Spanish Social Security System, provided such participation is allowed by the State. Moreover, these provisions must be understood as being without prejudice to the bilateral or multilateral agreements on Social Security already concluded or which may be concluded in the future.

This means of accreditation may only be used within a maximum period of six months after a diplomatic agent has taken up his/her post and for a maximum of two persons at his/her service. The possibility of using this option for subsequent replacements amongst these servants is not foreseen.

Upon the arrival of these domestic servants in Spain, the Embassy, Consular Post or International Agency shall inform the Ministry of Foreign Affairs and Cooperation, to which effect the documents mentioned in section 2.2.2 of this Guide shall be attached, any type of passport being admissible.

The Deputy-Directorate General for Chancellery, on its part, shall take note of these arrivals and issue a card (in the case of staff locally hired in Spain) or an accreditation document (in the

case of staff coming from abroad with their corresponding accreditation visa), pursuant to the provisions contained in Circular Note Verbale No. 20/7.2, of 13 November 2010.

As regards their nationality, employees in the private service of a diplomatic agent coming from abroad may be nationals of either the sending State or a third State.

6.3. TERMINATION OF FUNCTIONS

The termination of functions of the diplomatic agent shall automatically lead to that of their private servants or of the private staff in their private service who came to Spain with him/her, and to their obligation to leave Spain.

The Diplomatic Mission, Consular Post or International Agency shall inform the Deputy-Directorate General for Chancellery of the date, means of transport and point of border exit of these employees. The accreditation documents issued to them shall be attached to the above-mentioned Note Verbale.

7. TAX PRIVILEGES

The provisions regulating privileges and exemptions in the case of Diplomatic Missions, Consular Posts and International Agencies are contained in Royal Decree 3485/2000, of 29 December (Official Spanish Gazette No. 313, of 30 December), and Order of the Ministry of Finance of 24 May 2001 (Official Spanish Gazette No. 126, of 26 May), which establish the limits to such privileges and exemptions.

Without exceeding in any case the limits established under current provisions, the application of the principle of reciprocity shall be taken into particular account in this regard.

While the intention is not to give an exhaustive review of these rules, what follows is a summary of their most important aspects and of how to request the recognition of these tax benefits.

7.1. EXEMPTIONS

A privilege or exemption from all types of duties and taxes is extended to all goods imported for the official use of Diplomatic Missions accredited to and located in Spain, career Consular Posts and International Agencies located in Spain (with the limits and conditions set out in their Headquarters Agreements), as well as to the goods necessary (in the quantities set out by the Spanish Ministry of Economy and Finance) for personal use and consumption by diplomatic agents, career consular officers and members with diplomatic rank of International Agencies located in Spain (within the mentioned limits).

The administrative and technical staff of Diplomatic Missions and International Agencies and consular officials of career Consular Posts shall enjoy the same regime as regards their furniture and personal chattels imported on their relocation to Spain. In these

cases, the importation must take place within a year from the date the post was occupied.

Obviously, goods and articles whose entry into Spain is prohibited are not included, and the privileges and exemptions corresponding to Embassies, career Consular Posts and their accredited staff are subject to the existence of reciprocity.

Excluded from exemption are storage, haulage and similar services of such goods.

Moreover, it must be underlined that, in the case of importation of goods whose purpose is to be exhibited (whether for sale or not) during a trade fair, exemption under the diplomatic system is not applicable.

The procedure for requesting exemption is as follows: application for Temporary Importation of the goods in question presented to the corresponding customs office, describing the purpose of the importation and the duration thereof. Clearance shall be effected via the Single Administrative Document (DUA, in Spanish), and this (temporary) regime may be cancelled by re-exporting the goods to the country of origin, relinquishing or destroying them, distributing them for free or definitively importing them. Only in the latter case can exemption under the diplomatic system be applied for at this Ministry.

As for motor vehicles, privileges and exemptions for import are regulated in section 7.5 of this Guide.

7.1.1. Formalities upon occupying post

Once the persons mentioned in the preceding section have been accredited, they may request the importation free of customs duties and taxes of all their household items by means of:

Note Verbale, accompanied by:

- Diplomatic exemption form: This consists of a green form and a yellow form, which are provided by the Ministry's Protocol Services. It should be completed carefully, paying special attention to those items marked with an asterisk. This form requires the signature of the Head of Mission

or, in his/her absence, of the *Chargé d’Affaires ad interim*, the Head of the Consular Post, or the person who represents and heads the International Agency or the person to whom this power has been delegated (after this Ministry has been informed of such delegation), and shall include the name, post, complete signature and the stamp of the Mission.

- A complete list of all the goods imported (in Spanish). This list must include all goods sent, even if their entry into Spain is to be effected in several shipments.

Failure to comply with these requirements will prevent the exemption from being processed.

7.1.2. Goods imported with exemption by staff with diplomatic rank

Throughout their period of accreditation in Spain, members of staff with diplomatic rank (at Embassies, Consular Posts and International Agencies) may import, with diplomatic exemption, the goods necessary for their personal use and consumption, subject to the limits indicated in section 7.3 of this Guide, where a double accumulative limit is set out for imported goods under exemption and/or purchased with VAT exemption.

In any case, alcoholic beverages and tobacco are subject to the following quarterly limits:

- a) *Tobacco products*:
 - 9,000 cigarettes
 - 65 cigars
- b) *Alcohol and alcoholic beverages*:
 - Distilled beverages: 90 litres.
 - Sparkling wine: 30 litres.

Heads of Diplomatic Mission may import, under exemption, twice these amounts.

The procedure is identical to that outlined in section 7.1.1., with a Note Verbale for each exemption request.

7.2. VAT EXEMPTION/REFUND FOR DIPLOMATIC MISSIONS

7.2.1. **Direct Exemption.** (VAT not included in price)

7.2.1.1. *Real estate properties:*

Delivery and lease of buildings or parts thereof and adjoining land, purchased or leased by foreign States to be used as the headquarters of their Diplomatic Missions or Consular Posts or as the residence of the Head of the Diplomatic Mission or the Consular Post when, in this latter case, career Consular Officials are involved. (See section 11 of this Guide).

7.2.1.2. *Building work:*

The exemption mentioned in the preceding paragraph includes construction work, with or without materials, directly entrusted by the corresponding foreign State to the contractor, when its purpose is the construction, improvement, extension or refurbishment of the buildings referred to in the preceding paragraph, as well as conservation and repair works, whenever their amount, with reference to each specific operation, exceeds €751.27.

7.2.1.3. *Procedure:* By

Note Verbale, accompanied by:

- The standardised form of the Ministry of Economy and Finance (Form 363), completed in its entirety, following the instructions contained therein. The form includes the application and the attestation of final use. The form shall be completed by the applicant, and the attestation of final use shall be issued by the Head of Mission or the *Chargé d’Affaires ad interim*, the Head of the Consular Post, or the person who represents and heads the International Agency or the person to whom this power has been delegated (after informing this Ministry of such delegation), and should include the name, post, complete signature and the stamp of the Mission.

- In the case of an application for exemption for construction work, a photocopy of the detailed estimate, authenticated by the Mission, shall be attached.
- In the case of leases, two photocopies of the Lease Agreement, authenticated by the Mission, shall be attached.

Applications for exemption shall be made upon signing the contract, and shall be of a similar duration to that of the contract, unless there is a substantial change in the terms thereof (an updated CPI shall not be considered a change).

The form may be obtained at any Spanish Tax Agency Office or downloaded directly from the Spanish Tax Agency's official website at www.aeat.es. The route is as follows: Home Page -> *Sede Electrónica: Oficina Virtual* -> *Trámites Destacados: Descargar Modelos y Formularios* -> *Impuesto sobre el Valor Añadido* -> Select form number. If a form is downloaded from the website, do not photocopy it for further use, since the barcode and the form number are unique.

7.2.2. **VAT refund** (VAT included in the price)

7.2.2.1. *Goods for official use:*

Deliveries to a foreign State of goods required for official use by Diplomatic Missions accredited to and resident in Spain are exempt from VAT, by refund.

7.2.2.2. *Office goods:*

Deliveries of stationery for official use are exempt from VAT by refund whenever the total cost of each invoice exceeds €300.51.

7.2.2.3. *Utilities and services:*

The following are exempt from VAT by refund: water, gas, electricity and fuel supplies, as well as the provision of telephone and radio and telegraphic communication services, when they are provided to the premises of the Diplomatic Missions or Consular Posts, as well as to the residence of the Head of the Diplomatic

Mission or Head of a Consular Post, provided that, in this latter case, he/she is a career Consular Officer.

Contracts shall be entered on behalf of the relevant Embassy, Consulate or Agency, and not in the name of a particular individual.

In the event of a contract in the name of a specific individual (e.g., of the Head of Mission or Head of Consular Post), the amount of each invoice shall exceed €240.40.

7.2.2.4. *Procedure by:*

A Note Verbale for each application for exemption, to which shall be attached:

- The standardised form of the Ministry of Economy and Finance (form 362), which specifies the year and quarter of the expense for which tax refund is requested. This form must be completed in its entirety, following the instructions contained therein. As in the case of form 363, there is a section for the applicant (the beneficiary of the exempt operation) and another one for the person making the attestation of final use: the Head of Mission or the *Chargé d’Affaires ad interim*, the Head of the Consular Post, or the person who represents and heads the International Agency or the person to whom this power has been delegated (after informing this Ministry of such delegation), and should include the name, post, complete signature and the stamp of the Mission.

A form shall be sent for each application, detailing (on the pages where the invoices are listed) each of the following three aspects, as mentioned in Royal Decree 3485/2000, of 29 December:

- Goods for official use.
- Office goods.
- Utilities and supplies.
- A photocopy of the invoices, authenticated by the Mission (providing a certified copy of the invoice makes the attachment of individual purchase tickets unnecessary).

Form 362 can also be obtained at any Spanish Tax Agency Office or downloaded directly from the Spanish Tax Agency's official website (see section 7.2.1.3. of this Guide).

7.3. VAT REFUND FOR DIPLOMATIC AGENTS, CAREER CONSULAR OFFICERS AND STAFF MEMBERS OF INTERNATIONAL AGENCIES WITH DIPLOMATIC RANK

Deliveries of goods for the use and consumption of Diplomatic Agents and career Consular Officers, as well as staff members, with diplomatic rank, of International Agencies having their headquarters or offices in Spain are exempt from VAT, by refund.

Processing the exemption requires:

A Note Verbale for each application, to which shall be attached:

- The standardised form of the Ministry of Economy and Finance (form 362, an original, not photocopied form for each application), which specifies the year and quarter of the expense for which tax refund is requested. This form must be completed in its entirety, following the instructions contained therein. As set out above, there is a section for the applicant (in this case, the individual entitled to the refund), and another one for the person making the attestation of final use: the Head of Mission or the *Chargé d'Affaires ad interim*, the Head of the Consular Post, or the person who represents and heads the International Agency or the person to whom this power has been delegated (after informing this Ministry of such delegation), and should include the name, post, complete signature and the stamp of the Mission. The difference, in this case, is that refunds are made to the applicant (not to the Embassy, Consulate or International Agency where he/she works).
- A photocopy of the invoices, authenticated by the Mission (providing a certified copy of the invoice makes the attachment of individual purchase tickets unnecessary).

The maximum authorised quarterly expense is €9,015.18. This limit is accumulative, and includes goods for personal use and

consumption imported under the exemption system, and those purchased with VAT exemption. In addition, the minimum amount per invoice submitted is €240.40

7.4. VAT EXEMPTION ON PURCHASES IN ONE EU MEMBER STATE FOR DELIVERY TO ANOTHER

This procedure is set out in Article 151 of EC Council Directive 2006/112/EC. The mechanism to apply direct exemption (not refund) from VAT, is set out in Article 3.5 of Royal Decree 3485/2000, of 29 December.

Applications for exemption shall be sent to this Ministry by Note Verbale, accompanied by the corresponding duly completed form, and the pro forma invoice without VAT. The minimum amount per invoice shall be €240.40.

The amount for which exemption is requested shall be recorded together with the date of reception of the corresponding Note Verbale in this Ministry's General Register, not with the date of the pro forma invoice or the estimate.

This Ministry, upon completion of the corresponding formalities at the relevant services of the Ministry of Economy and Finance, shall forward the corresponding certificate to the interested parties for its subsequent delivery to the supplier in the country where the purchase is to be made.

The exemption application form can be obtained at any Spanish Tax Agency Office, or downloaded directly from the Tax Agency's website (www.aeat.es), following this route:

Home Page -> Sede Electrónica: Oficina Virtual -> Descargar Modelos y Formularios -> Declaraciones -> Todas las Declaraciones -> Resto de Modelos -> Certificado Exención IVA.

The supplier will thus possess a document accrediting the VAT exemption applied to the acquisition of the good or service in question.

7.5. VEHICLES: IMPORTATION UNDER THE DIPLOMATIC EXEMPTION SYSTEM AND ISSUANCE OF NUMBER PLATES UNDER THE SPECIAL SYSTEM

Diplomatic Missions, career Consular Posts and International Agencies with headquarters or offices in Spain, as well as Diplomatic Agents, career Consular Officers, administrative-technical staff and accredited consular employees, provided they are not Spanish nationals and are accredited to the Ministry of Foreign Affairs and Cooperation, shall be entitled to importation of vehicles under the diplomatic exemption system and to obtain number plates under the special system.

7.5.1 **Maximum number of vehicles that may be acquired with these privileges for official and private use**

For official use:

- Diplomatic Missions: vehicles with CD number plates, maximum depending on need.
- Career Consular Posts: vehicles with CC number plates, maximum depending on need.
- International Agencies: Variable, pursuant to the Headquarters Agreement. These vehicles shall have OI number plates.

For private use:

- Ambassador-Head of Mission: Up to four vehicles with CD number plates.
- Other Diplomatic Agents: Three vehicles with CD number plates.
- Career Consular Officers: Three vehicles with CC number plates.
- Administrative-technical staff and consular employees: One vehicle with TA number plates.
- Accredited staff at International Agencies: they may register the number of vehicles set out in the headquarters agreement, without exceeding the limits set in the preceding paragraphs. These vehicles shall carry OI number plates.

Within the framework of current legislation in Spain, the principle of reciprocity shall be taken into particular account.

7.5.2. Special number plates: types

Bearing in mind the type of Mission, the Mission itself and its accredited staff shall have the following types of number plates available:

- Diplomatic Missions and Diplomatic Agents:
Number plates with a red background and the letters CD.
- Career Consular Posts and career Consular Officers: Number plates with a green background and the letters CC.
- Technical-administrative staff and consular employees:
Number plates with a yellow background and the letters TA.
- International Agencies and their staff: Number plates with a blue background and the letters OI.

7.5.3. Registration of vehicles under the diplomatic system

As an annex to Circular Note Verbale No. 8/7, of 21 March 2007, the Ministry of Foreign Affairs and Cooperation sent to all accredited Diplomatic Missions and International Agencies with headquarters or offices in Spain, the specifications to be complied with for the different formalities, including the registration of vehicles under the diplomatic system, distinguishing between those vehicles that had never been registered in Spain and those that had been previously registered with an ordinary number plate.

7.5.3.1. Vehicles not previously registered in Spain

A distinction must be made between the following cases:

- a) Vehicles purchased in Spain or in the EU Customs Territory.

The request for registration shall be effected by means of a Note Verbale addressed to the Ministry's Deputy-Directorate General for Chancellery, accompanied by:

- An application for prior exemption from VAT, Form 363, which may be obtained and must be filled in following the indications contained in Section 7.2.1 of this Guide, clearly stating the final user and whether intended for official use, if for a Mission (including Tax Identity Code —CIF) or for private use (name, surname and Personal Tax Identity Number— NIF).
 - Technical Inspection Card for the vehicle (copies in blue and pink) or certificate of its technical characteristics, in Spanish, issued by the manufacturer or its agent in Spain. The characteristics to be included in this certificate should be stated in the Annex to the Note Verbale mentioned above.
- b) Vehicles purchased new in the EU Customs Territory. This procedure is set forth in Article 151 of EC Council Directive 2006/112/EC.

The request for exemption shall be sent to this Ministry's Deputy-Directorate General for Chancellery by Note Verbale, which shall be accompanied by:

- The corresponding form, duly completed, and the pro forma invoice.
 - Technical Inspection Card for the vehicle (copies in blue and pink) or certificate of its technical characteristics, in Spanish, issued by the manufacturer or its agent in Spain. The characteristics to be included in this certificate are stated in the Annex to the Note Verbale mentioned above.
- c) Vehicles imported from outside the EU territory.

Prior to processing the request to register a vehicle, an import authorization must be requested, by means of a Note Verbale addressed to the Deputy-Directorate General for Chancellery, expressly indicating the chassis number, make, model, registration number, Customs Office through which the importation shall be processed, and country of origin. This Ministry will convey the request to the Department for Customs and Special Taxes that, once received, will inform the Embassy concerned by Note Verbale

in order to carry out the importation and obtain the Single Administrative Document (DUA) recognising it.

Once this has been done, registration of the vehicle may be requested by Note Verbale addressed to the Deputy-Directorate General for Chancellery, accompanied by the DUA and a certificate with the technical characteristics of the vehicle, identical to that mentioned under Section a).

7.5.3.2. Vehicles previously registered in Spain with an ordinary number plate, purchased from individuals

Requests for registration shall be made by Note Verbale addressed to the Deputy-Directorate General for Chancellery, to which the following shall be attached:

- Vehicle licence and official Technical Inspection Card of the vehicle with a Spanish number plate.
- Evidence of having paid or of being exempt from the tax on capital transfers (standardised form 620) and purchase agreement if the person requesting the diplomatic number plate is other than the holder of the Spanish number plate.

Form 620 may also be downloaded directly from the Spanish Tax Agency's official web site at www.aeat.es. The route is as follows: Home Page -> Sede Electrónica: Oficina Virtual -> Trámites destacados: Descargar Modelos y Formularios -> Todas las Declaraciones -> Resto de Modelos -> Select Form Number.

If the purchase was made via automobile companies or dealers, Form 363 shall be attached, instead of Form 620.

7.5.4. **Transfer of a vehicle registered under the diplomatic system to persons with privileged status**

If the transfer is to be effected between persons accredited at the same Mission, it shall be formalised by means of a Note Verbale addressed to this Ministry's Deputy-Directorate General for Chancellery, accompanied by the diplomatic vehicle licence of the vehicle to be transferred.

If the transfer is to be effected between persons accredited at different Missions, both Missions shall send the corresponding Note Verbale. In the one sent by the present owner of the vehicle, the name of the person to whom the vehicle is transferred and the Mission at which he/she is accredited must appear, accompanied by the vehicle licence and registration number and the request to cancel the fuel card for the vehicle. The Note Verbale sent by the Mission where the new owner is accredited shall state, in addition to the name of the person transferring the vehicle and the Mission where he/she is accredited, the make, model and registration number of the vehicle.

7.5.5. Sale of a vehicle registered under the diplomatic system to persons without tax privileges

Before processing the request to sell the vehicle, prior authorisation for the sale must be secured by means of the relevant Note Verbale addressed to this Ministry's Protocol Services. This Ministry shall convey the request to the Spanish Tax Agency and, once a favourable reply has been given, it shall so inform the corresponding Mission.

Once the above-mentioned authorisation has been secured, the request shall be formalised by means of a Note Verbale addressed to this Ministry's Deputy-Directorate General for Chancellery, indicating the purchaser's name, address and Personal Tax Identity Number (NIF) accompanied by the following documents:

- If the vehicle was purchased in Spain or within the EU Customs Territory, online presentation of Form 380, issued by the Spanish Tax Agency, and proof of payment.
- If the vehicle comes from a country outside the EU Customs territory, the Single Administrative Document (DUA). (See section 7.5.3.1. b)
- If no more than four years have elapsed since the diplomatic number plate was granted, Form 576 issued by the Spanish Tax Agency
- Purchase agreement.
- Diplomatic number plates.

Nevertheless, if the vehicle, before being covered by the diplomatic system, had already been registered in Spain with ordinary number plates, only the purchase agreement need to be attached.

Lastly, the Note Verbale shall include a request to cancel the fuel card of the vehicle in question.

Forms 380 and 576 can be obtained at any Spanish Tax Agency Office, or downloaded directly from the Spanish Tax Agency's official website, at www.aeat.es. The route is as follows: Home Page -> *Sede Electrónica: Oficina Virtual* -> *Trámites destacados: Descargar Modelos y Formularios* -> *Todas las Declaraciones* -> Select Form Number.

7.5.6. Ceding a diplomatic vehicle to the Spanish Treasury

To this end, a Note Verbale shall be addressed to the Deputy-Directorate General for Chancellery, indicating that the cession does not involve any cost or expense for the Spanish Treasury.

This Ministry shall convey the request to the Spanish Tax Agency, which will decide on the request and so inform this Ministry; the latter, in turn, will notify the Mission in question so that the vehicle can be deposited at the corresponding customs office. Acknowledgement of reception of the vehicle, vehicle licence and diplomatic number plates shall be sent to this Ministry.

The cession shall be notified to the Provincial Traffic Office. Both the latter and this Ministry's Protocol Services will then cancel the vehicle's registration.

As in the previous cases, the Note Verbale shall include a request to cancel the fuel card of the vehicle.

Under no circumstances may a vehicle's registration be cancelled for destruction or scrapping without prior authorization from the Spanish Tax Agency, processed through this Ministry.

7.5.7. Re-exportation of vehicles

The Mission that owns the official vehicle to be re-exported or where its owner is accredited, if an individual is involved, shall address a Note Verbale to this Ministry's Protocol Services

indicating the scheduled date and border point of exit, and request cancellation of the fuel card of the mentioned vehicle.

In any case, if the re-exportation takes place due to termination of functions of the vehicle owner, the latter is under the obligation to return, via the Mission, the vehicle licence and the number plates within 60 days of the date of termination of functions. Failure to comply with this requirement may affect the processing of new car registrations.

7.5.8. Validity of vehicle licences

These licences will remain valid during the year following their issue. Annual renewal shall be requested during the first quarter of following years.

The licence must be returned to this Ministry, together with the corresponding number plates, when the holder's functions terminate.

7.6. DRIVING LICENCES: EXCHANGE

In order to be able to drive vehicles in Spain for a period exceeding three months, accredited staff must be in possession of the corresponding licence issued by the Spanish authorities.

Accordingly, the exchange of driving licences is required of all diplomatic, consular and technical-administrative staff, as well as of consular employees and International Agencies' staff accredited in Spain, and their dependent family members. An exception to this is made for licences issued by other EU countries, whose holders may drive in Spain without needing to exchange their licences. Holders of EU driving licences must register the details with the relevant Provincial Traffic Office.

In order to formalise the exchange, requests shall be sent to the Protocol Services by means of a Note Verbale, accompanied by the following documents:

- Authenticated photocopy of the driving licence —which must be in force— and a copy translated into Spanish.
- Photocopy of the accreditation document issued by this Ministry.

- Two standard-size, colour photographs for the driving licence.
- Medical certificate of psychological and physical capacity to obtain a driving licence, issued by a duly authorised medical practitioner.

The driving licence is issued free of charge, but a fee shall be charged for a providing a duplicate, if the original is lost or damaged.

International driving permits, normally granted on a temporary or transitional basis, are not valid for these purposes.

If a driving licence is not held, the regulations set out in current legislation to obtain one under the standard procedure shall be applicable. In this respect, note that driving a vehicle without the corresponding licence is absolutely forbidden.

7.7. FUEL

All vehicles with CD, CC and OI number plates—in this latter case, exclusively those devoted to official use or to the private use of staff with diplomatic rank—shall be entitled to 400 litres of petrol per month.

In order to enjoy this privilege, those so entitled must choose one of the companies licensed to issue cards, by means of which the purchase of fuel and the reimbursement of taxes paid shall be carried out.

To this end, a Note Verbale should be addressed to this Ministry, accompanied by the standardised form, including the following information:

- Embassy, Consular Post or Agency to which the vehicle belongs, and Tax Identity Number (CIF).
- Official registration number of the vehicle.
- Name of the owner of the vehicle or the denomination «official use», if this is the case.
- Tax Identity Number (NIF) of the card holder.
- Card-issuing company selected.
- Explicit statement that it is an initial request to exercise this right.

To renounce the card, a statement to this effect should be made, using the same system and form.

In the event of transferring the vehicle between owners who enjoy this privilege, the new owner of the transferred vehicle may not obtain its registration if the former owner has not notified the cancellation of its registration.

The instructions or information included in the preceding points may be amended pursuant to the principle of reciprocity, to be formally notified in each applicable case.

7.8. VEHICLE INSURANCE

Article 2 of the Civil Responsibility and Insurance in the Circulation of Motor Vehicles Act (Consolidated Text approved by Decree 632/1968, of 21 March) states that motor vehicles must be insured. Item 1 of the same Article expressly states that: «All owners of motor vehicles ordinarily resident in Spain shall be obliged to take out an insurance contract for each vehicle owned...».

8. CAR PARKING

8.1. IN THE CITY OF MADRID

By means of Circular Note Verbale No. 12/7, of 21 September 2006, the Ministry of Foreign Affairs and Cooperation informed all Diplomatic Missions and International Agencies with headquarters or offices in Madrid, of the entry into force of a Municipal Ordinance which greatly facilitates parking for Diplomatic Missions.

This measure permits free parking of vehicles with special CD, CC and OI number plates in the restricted parking areas of the city (green and blue zones), subject to reciprocity.

8.2. AT THE CHANCELLERY OR SEAT OF INTERNATIONAL AGENCY AND AT HEAD OF MISSION'S RESIDENCE

By courtesy of Madrid City Council, every foreign Diplomatic Mission or International Agency accredited in Spain and situated in Madrid shall have parking signals reserving two spaces in front of the Chancellery. They shall also be able to obtain a space for a vehicle in front of the residence of the Head of Mission or Agency Director. Only vehicles with CD or OI number plates shall be allowed to park in the mentioned area.

If such spaces cannot be made available in front of the building, they shall be made available in the nearest possible area where this is feasible, in accordance with the required need for space and current legislation.

Requests for these reserved spaces or any changes thereto shall be processed *exclusively* by this Ministry's Deputy-Directorate General for Chancellery.

When there has been a change in location, in order for the new parking cards to be issued, the old ones must be sent to this Ministry's Protocol Services. Subsequent renewals shall be sent directly to the interested parties by the relevant municipal authorities.

8.3. AT THE CONSULATES GENERAL LOCATED IN SPAIN'S CAPITAL CITY

By means of Circular Note Verbale No. 32/7, of 18 October 2007, this Ministry informed of the concluding of a new agreement with the relevant Madrid City Council authorities in order to grant greater facilities for the daily performance of work, in this case of Consulates General.

This agreement enables obtaining a parking space for vehicles with CC number plates in front of each Consulate General located in Madrid.

Requests for this reserved parking space must be processed, as in the preceding section (8.2.), via the Embassies accredited before the Protocol Services, by Note Verbale, suggesting the preferred parking space for the vehicle with CC number plates, which, if possible, shall be in front of the Consulate General.

In view of the obvious shortage of parking spaces in Madrid, it is not possible to extend this measure to Consulates that are not General, nor to Honorary Consulates, whatever their category.

8.4. AT CONSULAR POSTS NOT LOCATED IN SPAIN'S CAPITAL CITY

Likewise and as a matter of courtesy, local City Councils where Consular Posts or International Agencies are located usually grant parking spaces, whose number varies according to the local authority in question. Requests shall be submitted directly to the corresponding municipal authorities.

8.5. AT MADRID-BARAJAS AIRPORT

By means of Circular Note Verbale No. 21/7, of 17 November 2006, the Ministry of Foreign Affairs and Cooperation notified

accredited Embassies and International Agencies located in Spain of the establishment of a parking area (20 spaces) in front of the arrivals area of Barajas Terminal 2, for use by vehicles with CD, CC and OI number plates. This new parking area is in addition to those already existing at Terminals 1 and 4.

The procedure to obtain the identity card allowing access, one per Mission, is detailed in the aforesaid Note Verbale.

The Ministry of Foreign Affairs and Cooperation urges compliance with the maximum time limit stipulated for these parking spaces (i.e. 90 minutes), in order to rationalise the use of these areas in the interest of all the Missions.

In addition to the criteria set out concerning parking facilities, and respecting the stipulated limits, the principle of reciprocity may be implemented in applicable cases.

9. TRAFFIC REGULATIONS

The Ministry of Foreign Affairs and Cooperation wishes to underline the importance attached, in any advanced society, to the preservation and promotion of road safety, the prevention of accidents, optimum coordination in the use of public spaces and the special protection of persons with limited mobility in order to improve their social integration.

Thus, this Ministry trusts that, in addition to fulfilling the duty to respect and comply with the laws and regulations of the receiving State, as imposed by the Vienna Conventions on Diplomatic and Consular Relations on those persons who enjoy the privileges and immunities thus conferred, the members of the Diplomatic Corps and other staff accredited in Spain will afford the highest possible degree of collaboration in fulfilling traffic regulations and in the defence of the rights and values such regulations protect. This is especially so in view of the facilities granted by the Municipal Ordinance of Madrid City Council (Circular Note Verbale No. 12/7, of 21 September 2006) to vehicles with special CD, CC and OI number plates, by virtue of which they are exempt from the parking duration limitation and also from payment of the corresponding fee. This calls for adequate civic behaviour by those entitled to these benefits.

Therefore, this Ministry wishes to reiterate the request made to Heads of Mission and Representatives of International Agencies by virtue of Note Verbale No. 4/7, of 1 February 1996, complemented by Note Verbale No. 19/7.2, of 3 September 2008, to advise their staff of the need for the strictest observance of traffic regulations.

Likewise, the Ministry of Foreign Affairs and Cooperation expects that any fines imposed for infringement of traffic

regulations shall be duly paid by the Diplomatic Missions and International Agencies accredited to Spain, as well as by their staff. In case of discrepancy (material or formal) with the notice served by the competent authority, it is recommended that the corresponding appeals be made, in due time and form, pursuant to legislation.

10. COMMUNICATIONS: DIPLOMATIC BAG; RADIO STATIONS

The Vienna Conventions on Diplomatic and Consular Relations set out the duty of the receiving State to permit and protect untrammelled communication of Diplomatic Missions and Consular Posts by all appropriate means, among which mention is made of diplomatic or consular couriers, the diplomatic or consular bag and messages in code or cipher.

10.1. DELIVERY AND COLLECTION OF THE DIPLOMATIC BAG

10.1.1. Checked-in bags

Checking-in shall be effected at the cargo terminal of Madrid-Barajas Airport. The diplomatic courier shall identify him/herself and present the corresponding certificate of the Diplomatic Mission or Consular Post indicating that it is a diplomatic or consular bag and the number of packages of which it is constituted.

At no time may the courier access the premises where the bags are kept.

10.1.2. Diplomatic/Consular Bag entrusted to the captain of the aircraft

The delivery or collection of this bag shall be effected by the captain of the aircraft or by the crew member appointed by the latter, at the offices of the airline or company representing it.

10.1.3. Accreditation of a diplomatic courier

The Deputy-Directorate General for Chancellery shall request the Madrid-Barajas Airport authorities to issue a personal, non-

transferable ID document accrediting diplomatic courier status, authorising him/her only to deliver and collect the diplomatic or consular bag at Madrid-Barajas Airport. This document shall allow entry solely to the areas of delivery and collection of diplomatic and consular bags.

In order to request this document, the Embassy/Consular Post shall send a Note Verbale stating:

- The name and surname of the person for whom the request is made.
- A photocopy of his/her accreditation document.
- A photocopy of his/her passport or, if applicable, residence permit.

Once the request has been processed, the accreditation shall be issued by the Security Office of Madrid-Barajas Airport.

10.2. INSTALLATION OF TELECOMMUNICATIONS EQUIPMENT: RADIO STATIONS AND SATELLITE COMMUNICATION STATIONS

Article 27 of the Vienna Convention on Diplomatic Relations and Article 35 of the Vienna Convention on Consular Relations set out that the installation of radio transmitters in Diplomatic Missions/Consular Posts shall require the consent of the receiving State.

In Spain, the processing of a licence to install and use radio and satellite communication stations is carried out at the Ministry for Industry, Tourism and Trade (Directorate General for Telecommunications).

The General Telecommunications Act (Act 32/2003, of 3 November) sets out a maximum time limit of five years for the right to the exclusive use of the radio-electric spectrum without a numerical limit being in place, which may be extended for further periods of five years at the interested party's request. The use of the spectrum is subject to a fee, exemption from which is possible on the basis of reciprocity.

In order to process a licence to install this type of communications system, a Note Verbale shall be addressed to this Ministry's Deputy-Directorate General for Chancellery, stating:

- The type of communications system requested.
- The name and contact telephone number of the person responsible for these formalities at the Mission.
- Request for exemption from the aforesaid fee, if applicable, annexing a statement on the existence of reciprocal treatment for the Spanish Diplomatic Mission / Consular Posts in their country.

This Note Verbale shall be accompanied by the corresponding standardised form, depending on the communications system to be installed, duly completed and including the required technical specifications, In order to obtain this form, the Mission shall address the Deputy-Directorate General for Planning and Management of the Radioelectric Spectrum of the Ministry for Industry, Tourism and Trade (switchboard telephone no. 91.349.40.00 and general information telephone no. 902.44.60.06) or access the aforesaid Ministry's website www.mityc.es), to find information on this topic. The route is: Home Page -> Telecommunications -> *Áreas de Interés: Espectro Radioeléctrico* -> *Trámites Administrativos* -> Select the relevant option.

This Ministry shall convey such a request to the Directorate General for Telecommunications, supporting the request for exemption from the fee if reciprocity exists.

11. ACQUISITION OF LAND, REAL ESTATE AND PREMISES TO BE ASSIGNED TO DIPLOMATIC MISSIONS AND CONSULAR POSTS

Spanish laws and regulations in this sphere require States that are not members of the European Union to obtain prior administrative authorisation for direct or indirect investments carried out in Spain to acquire real estate for their Diplomatic Missions or Consular Posts, unless a liberalisation agreement is in place on the basis of reciprocity (Third Additional Provision of Royal Decree 664/1999, of 23 April, on foreign investments, published in the Official Spanish Gazette of 4 May 1999).

11.1. DEFINITION OF THIS REAL ESTATE

Land plots, buildings and parts thereof, as well as adjoining land, used as headquarters by Diplomatic Missions or Consular Posts, or as the residence of the Head of the Diplomatic Mission or that of the Head of the career Consular Post. The headquarters shall be deemed to comprise the premises assigned to their services or offices.

11.2. PRIOR AUTHORISATION PROCEDURE

The interested Diplomatic Mission shall request, by means of a Note Verbale addressed to the Deputy-Directorate General for Chancellery of the Ministry of Foreign Affairs and Cooperation, prior administrative authorisation to acquire the property, indicating:

- Address and description of the property.
- A copy of the property's entry in the Property Register.

- Owner's name and address.
- Price of the property.
- Certificate issued by the municipal authority confirming that the building may be used for the purposes envisaged.
- Certificate of existence of the corresponding reciprocity.

This prior administrative authorisation is not required in the case of European Union Member States or in the case of countries where an agreement exists liberalising these types of investments under reciprocity arrangements.

This Ministry's Deputy-Directorate General for Chancellery shall analyse the application, request the appropriate reports and convey the file to the Foreign Investment Board (a collegiate, inter-ministerial body), which shall issue the necessary report.

Once the report has been issued, processing of the file will continue until it is presented to the Cabinet, the body that will decide whether to authorise the investment.

Finally, the requesting Diplomatic Mission shall be notified of the decision adopted that, if favourable, shall allow the operation to be carried out.

Note that a purchase that has not obtained this prior authorisation shall not be recognised by Spain, cannot be entered in the corresponding Property Register, and shall not be eligible for the corresponding tax benefits, upon the implementation of the reciprocity principle.

Any change in the terms of the investments authorised shall require prior official notification to this Ministry's Deputy-Directorate General for Chancellery, which will make an evaluation and inform the interested Diplomatic Mission of the need or otherwise to commence new proceedings to obtain an administrative authorisation.

In any case, if the change involves an increase in the building volume on the land or the demolition and new construction of buildings or parts thereof on the same land, the informative Note Verbale must be accompanied by a construction and/or demolition plan, specifying the alterations intended and their cost, together with a certified photocopy of the building licence or of a certificate

issued by the competent municipal authorities confirming the project's legal viability. The performance of the work is subject to the corresponding decision by the Cabinet.

11.3. CONSTRUCTION OR ALTERATION OF BUILDINGS

The construction or alteration of buildings is subject to national, regional and municipal laws and regulations.

The Diplomatic Mission shall inform this Ministry's Protocol Services when requesting, either directly or indirectly via the builder entrusted with the work, the corresponding municipal licence.

Performance of the works is subject to the building licence fee, to the tax on constructions, installation and works (exemption from which may be considered, subject to reciprocity) and to Value Added Tax (see Section 7.2 in this Guide).

11.4. TAX EXEMPTIONS

Pursuant, in all cases, to the principle of reciprocity, these properties are exempt from all national, regional and municipal taxes and duties, except those referring to private services rendered.

12. OFFICIAL VIP LOUNGE

(Circular Note Verbale No. 6/7 of 11 March 2009)

12.1. REQUESTS TO MAKE USE OF THE OFFICIAL VIP LOUNGE AT A SPANISH AIRPORT

The use of the Official VIP Lounge at all Spanish airports may be requested by accredited Diplomatic Missions or International Agencies, on the occasion of official visits to Spain made by the authorities listed in Section 12.2 of the present Guide.

The request shall be made exclusively by means of a Note Verbale (not by fax) addressed to this Ministry, and it shall be presented at its General Register at least 48 working hours prior to the date of arrival or departure.

Requests to make use of the Official VIP Lounge for a President of the Government / Prime Minister or Vice-Presidents of the Government / Deputy Prime Ministers shall be presented directly to the Protocol Services of the Presidency of the Government.

This communication shall include the following data:

- Name and post held by the person for whom the request is made.
- Day and time of arrival and/or departure. City of origin and/or destination. Airline and flight number.
- Official programme of scheduled activities and accommodation.
- Name and surnames of accompanying persons, up to a maximum of eight persons.
- Express reference to the fact that transfers, from/to the premises of the Official VIP Lounge have been appropriately arranged between the Embassy and the carrier, in cases where this is relevant (see Section 12.3 of the present Guide).

Requests will not be processed if they do not include the required data, if they do not adhere to the established deadlines, or if they are presented directly to the Official VIP Lounge.

12.2. FOREIGN VIPS FOR WHOM THE USE OF THE OFFICIAL VIP LOUNGES MAY BE REQUESTED.

The use of the services of the Official VIP Lounge may be requested, in order to meet the needs of the departures and arrivals of the following authorities:

- Heads of State.
- Ruling Royal Families.
- Former Heads of State.
- Vice-Presidents of Republics.
- Presidents of Government or Prime Ministers.
- Speakers of Houses of Parliament, Senates or similar legislative bodies.
- Presidents of Supreme Courts of Justice.
- Vice-Presidents of Government.
- Government Ministers.
- Presidents or Governors of States that are part of countries with a federal or similar structure.
- Foreign Ambassadors, on commencing or concluding their mission to Spain.
- Secretaries General of International Agencies.
- Commissioners of the European Union.

12.3. TERMS OF USE OF THE OFFICIAL VIP LOUNGES

The facilities of the Official VIP Lounge shall not be available in the case of private visits, stopovers or transit flights, except for:

- Heads of State and their spouses.
- Former Heads of State.
- Ruling Royal Families.
- Vice-Presidents of Republics.
- Presidents of Government or Prime Ministers and their spouses.

In accordance with current regulations and practice, authorisation to make use of the Official VIP Lounge does not imply exemption from current regulations on airport security or immigration and customs controls, and it shall be opened between 6.30 am and 1.00 am. Any request exceeding that timeframe shall be refused.

The Ambassador of the country involved, or the Director or Secretary-General of the International Agency or his/her representative, accompanied by a maximum of five persons, shall have access to the Official VIP Lounge to welcome or bid farewell to the corresponding VIPs. Prior notice shall be given of the identity of these persons the data pertaining to the vehicles that are to access the area.

Furthermore, and pursuant to airport security regulations, VIPs shall not be greeted by the welcoming suite upon descending the aircraft, but, exclusively, within the Official VIP Lounge.

Lastly, note that due to management changes in services rendered by diverse airlines, transfers from/to the aircraft and the Official VIP Lounge are effected by the airlines with which the users of the premises have travelled. Moreover, many airlines have changed their conditions for free services, and now they charge for such services.

Therefore, it is indispensable that the Note Verbale addressed to this Ministry by the Embassy involved, requesting the use of the Official VIP Lounge for VIPs using any of the aforementioned airlines, should include express reference to the fact that transfers from/to the premises of the Official VIP Lounge have been appropriately arranged between the Embassy, which would meet the corresponding expenses, and the carrier.

12.4. FIRST ARRIVAL OF AMBASSADORS OR DEPARTURE AFTER TERMINATION OF DUTIES

The *Chargé d’Affaires ad interim*, accompanied by a maximum of five persons, shall have access to the Official VIP Lounge to receive the incoming Ambassador or bid farewell to the outgoing one. Prior notice shall be given of the identity of these

persons and the data pertaining to the vehicles that are to access the area.

The presence in the Lounge, on such occasions, of other Heads of Mission or their representatives is not envisaged. Neither will entry be granted to other persons or groups, regardless of their relationship due to professional, national, geographic or regional reasons.

13. SECURITY

Spain, as the receiving State, is obliged to adopt all measures necessary to protect the Diplomatic Missions, Consular Posts, and International Agencies accredited within its territory, as well as their staff.

Within the Ministry of Foreign Affairs and Cooperation itself, the interest in ensuring such a specific type of security led to the establishment, within the Protocol Services, of an *ad hoc* unit termed the «Diplomatic Security Area», headed by specialised officials and entrusted with coordinating, managing and advising all matters and situations that might affect this sphere.

With the same aim in mind, and with the object of coordinating joint efforts and collaboration, the Ministry of the Interior and the Ministry of Foreign Affairs and Cooperation set up the «Diplomatic Security Committee» to plan, analyse and maintain, on an on-going, updated basis, the security needs and resources required by accredited Missions.

The intention of this is to centralise requests by foreign Missions for protection and the coverage granted in each particular case, as well as the special security measures to be adopted on the occasion of visits by foreign VIPs, thus avoiding the need to address different units and authorities that would eventually refer the matter to the Ministry of Foreign Affairs and Cooperation for their attention.

The Diplomatic Security Area, therefore, through the general structures for State Security and in coordination with them, by means of the Commission on Diplomatic Security, will be responsible for handling security aspects, and their effectiveness will depend on compliance with the rules stated below.

13.1. REQUESTS FOR SECURITY SERVICES OR PERSONAL PROTECTION.

13.1.1. **For Embassies**

Requests for security services, both ordinary and extraordinary, for the Missions themselves or for their staff, and the provision of information deemed of interest to ensure this security, should be addressed to this Ministry's Protocol Services, avoiding undue repetition of such requests through other departments.

In situations of extreme danger, the emergency telephone numbers 091 or 112 may be used.

13.1.2. **For foreign VIPs**

Whenever requests refer to the stay of foreign VIPs in Spain, the procedure shall be as indicated above, including the provision of necessary information as to the name, post held, date, time and place of arrival, flight number (if applicable), accompanying persons, residence in Spain, programme (in the event of an official visit) or plan (if on a private visit), accompanying security officials and departure information.

Any meeting that a preparatory team may wish to hold with the officials responsible, within the Spanish State Security Forces, must be requested via the same department of the Protocol Services.

No request concerning the provision of a security service will be accepted, except in cases of extreme urgency, unless it is channelled as described above, and is in accordance with the rules contained in the Circular Notes Verbale issued on this subject.

13.2. SECURITY OFFICERS

This Section differentiates the security officers sent by the sending State, to reinforce the security of its Mission, and those forming part of the security team for a VIP visiting Spain.

13.2.1. Accredited security officers

The secondment of security staff by the sending State, in order to reinforce the security of its Mission, must be expressly notified to this Ministry, for its approval. Failing to inform of the sending of such staff by the Diplomatic Mission could lead to their not obtaining accreditation from the corresponding services of the Ministry of Foreign Affairs and Cooperation.

Persons sent under this category shall be accredited as members of the administrative and technical staff of the Mission and must be nationals of the sending State. The documents required for accreditation are those specified in Section 2.2 of this Guide. Terminations of duty and replacements must be formally notified to this Ministry.

Furthermore, each Embassy must inform this Ministry, by means of a Note Verbale, of the name of the diplomatic official responsible for security issues.

Authorisation for accredited security officers to introduce weapons must be requested of the Protocol Services by the corresponding Embassy or International Agency. The request must include all relevant information pertaining to the make, model, calibre and number of the weapon, which may only be a handgun (pistol or revolver) as well as its date of arrival and border entry point.

These weapons, once their entry has been authorised by the Ministry of Foreign Affairs and Cooperation, must be registered with the competent authorities, and any variation affecting them must be notified. They may only be used inside the Mission.

In order for security officers to be authorised to carry these weapons outside the Diplomatic Mission or Consular Post, the corresponding gun licence must be requested and obtained beforehand, after provision of the information referred to in Section 14 of this Guide.

13.2.2. Security officers for VIPs

The arrival of security officers (who, in every case, must belong to the Security Corps of their country of origin) to accompany VIPs during their stay in Spain, must be notified to this Ministry at least

72 hours in advance by means of a Note Verbale, including the following information:

- Name and surname, date and place of birth; passport type and number; make, model, calibre and number of the weapon and the ammunition to be carried; name, surname and post of the VIP being accompanied.
- In the event of arrival before the VIP to be protected, the date of arrival and departure, as well as the accommodation details foreseen.

Licences to carry weapons shall be granted on an individual basis, authorising each officer to carry a maximum of one weapon, which, in any case, shall be a handgun, i.e. a pistol or a revolver. Officers arriving before the person to be protected shall not be authorised to carry weapons until the VIP's arrival and must deposit any weapon carried at the Weapons Office at the border entry point.

Meetings to coordinate security matters that these officers may wish to hold shall be requested from and authorised by the Protocol Services of the Ministry of Foreign Affairs and Cooperation.

The number of armed officers shall be limited, depending on the type of visit and person concerned, as follows:

- Heads of State or of Government: up to ten officers.
- Speakers of Parliaments, Government Ministers, former Heads of State or Prime Ministers: up to two officers.
- Other VIPs: one or two officers.

13.3. PRIVATE SECURITY

Irrespective of the protection the receiving State provides to accredited Missions, the latter may complement it by deploying the staff and technical resources deemed appropriate; in all cases, provided current legislation pertaining to private security is complied with.

14. LICENCES TO CARRY WEAPONS

The possession of weapons, within Spanish territory, must be in compliance with current laws and regulations (Royal Decree 137/1993, of 5 May, approving the Regulations pertaining to weapons).

The entry of weapons from abroad must be formally authorised.

The holders of weapons must possess the corresponding licences, which are provided through the Deputy-Directorate General for Chancellery of the Ministry of Foreign Affairs and Cooperation. This service provided by the Ministry only concerns the provision of type D and E licences (rifles for big game hunting and smoothbore shotguns, respectively). Type B licences (for pistols or revolvers) shall be granted exclusively to security officers, although other bearers may be considered on an exceptional basis.

In any case, all requests for firearms licences must be made by means of a Note Verbale, accompanied by the following documents regarding the applicant:

- Standardised application form, duly completed and signed.
- Photocopy of passport.
- Photocopy of the ID Card issued by the Ministry of Foreign Affairs and Cooperation.
- Medical certificate issued by licensed medical centres for firearms licences.
- Criminal record certificate issued by the Ministry of Justice.
- Proof of payment of the corresponding fee.

The arms owned by each holder, once the corresponding licence has been obtained, must be legalized and documented. Therefore, holders must obtain the relevant Owner's Guide, personally, from the Central Firearms Inspectorate of the Civil Guard (currently located at calle Batalla del Salado, 32, Arganzuela District, Madrid).

On termination of functions, owners of legalized weapons must notify the Deputy-Directorate General for Chancellery of the Ministry of Foreign Affairs and Cooperation of their destination, and return the documents issued for their legalization.

15. CONSULAR POSTS

(See Circular Note Verbale No. 380, of 30 October 1990).

15.1. ESTABLISHMENT OR MODIFICATION OF A CONSULAR POST

The establishment or modification of any Consular Post requires the consent of the Ministry of Foreign Affairs and Cooperation; this is also required in order to establish the seat, classification and district of such Consular Post, in accordance with the proposal by the Diplomatic Mission.

To this end, Diplomatic Missions shall address a Note Verbale to this Ministry's Deputy-Directorate General for Chancellery requesting the establishment or modification of the seat or district of a Consular Post. This Note Verbale should indicate the location suggested as the seat of the Consular Post, as well as its classification and district. The consular district must be adapted to the territorial organisation of Spain, without intersecting any of the different Autonomous Communities (it may cover one or more Autonomous Communities, but every province within each such Autonomous Community must be included).

The Ministry's Deputy-Directorate General for Chancellery will notify, by means of a Note Verbale, the decision adopted with respect to the request made to establish or modify a Consular Post.

Note that the consent required for a Consular Post to be opened must be obtained prior to the proposal of appointment of its Head.

15.2. CATEGORIES AND CLASSES OF HEADS OF CONSULAR POSTS AND STAFF MEMBERS

15.2.1. **Categories and classes of Heads of Consular Posts**

Spanish practice recognises the following:

- a) Career and Honorary Consuls-General.
- b) Career and Honorary Consuls.
- c) Career and Honorary Vice-Consuls.
- d) Career and Honorary Consular Agents.

15.2.2. **Categories and classes of staff of Consular Posts**

Spanish practice recognises the following:

- a) Career Deputy Consuls-General
- b) Career and Honorary Consuls
- c) Career Deputy Consuls
- d) Career and Honorary Vice-Consuls
- e) Career and Honorary Consular Agents

15.3. APPOINTMENT OF THE CAREER HEAD OF A CONSULAR POST

The Diplomatic Mission shall send this Ministry's Deputy-Directorate General for Chancellery a Note Verbale indicating the name and curriculum vitae of the Head of the Consular Post whose appointment is proposed, and who must be a national of the sending State. The Note Verbale shall be accompanied by the Letter Patent, in accordance with the following requirements:

- a) It shall be signed by the Head of State or the Minister of Foreign Affairs of the sending State.
- b) It shall include the full name of the Head of the Consular Post, as is customary in the sending State.
- c) The classification, rank, seat and district of the Consular Post shall be stated.

The consular seat and district may be stated in a separate document, attached to the Letter Patent.

Acceptance of a career Head of a Consular Post will be notified by the Protocol Services to the competent authorities of the consular district.

15.3.1. Provisional acceptance

Until the exequatur is granted, which is subject to the sending of the Letter Patent, and during a reasonable period of time, never exceeding 60 days, the career Head of the Consular Post may provisionally exercise his/her functions.

15.3.2. Temporary exercise of functions

If the position of career Head of a Consular Post becomes vacant due to absence, termination of duty or inability to carry out his/her functions, the sending State may appoint an Acting Head.

This Acting Head may be a career Consular Officer of the same Consular Post, or a career Consular Officer sent specifically to this end, or a Diplomatic Agent of the Diplomatic Mission in Spain. In the latter case, he/she shall continue to enjoy diplomatic privileges and immunities while acting as temporary Head of the Consular Post.

The Mission must inform the Deputy-Directorate General for Chancellery of this appointment with sufficient notice. The Deputy-Directorate General for Chancellery will, in turn, notify this to the competent authorities of the consular district.

15.4. APPOINTMENT OF CAREER CONSULAR OFFICERS

As indicated for the career Heads of Consular Posts, career Consular Officers may also be appointed by means of a Letter Patent (subject to the same conditions as those indicated in Section 15.3) or by notification by the competent authority of the Ministry of Foreign Affairs of the sending State. In this latter case, it shall be sufficient for the Mission in question to send the Deputy-Directorate General for Chancellery a photocopy of the appointment, authenticated by the Mission.

Career Consular Officers must be nationals of the sending State.

Acceptance shall be effected by means of the corresponding exequatur if a Letter Patent has been issued or by express acceptance contained in the Note Verbale issued in reply, when the appointment of the official in question is the only instrument for accreditation.

Notice to the local authorities shall be served by the Deputy-Directorate General for Chancellery as in the case of career Heads of Consular Posts.

15.5. TYPES OF PASSPORT

Under Spanish practice, the following types of passport may be held by the career staff of Consular Posts existing in Spain:

- a) Head of the Consular Posts and career Consular Officers: Diplomatic Passport
- b) Consular employees: Official or Service Passport
- c) Service staff: Service or Ordinary Passport

15.6. APPOINTMENT OF HONORARY HEADS OF CONSULAR POSTS

15.6.1. **Request for appointment**

The Diplomatic Mission, by means of a Note Verbale addressed to this Ministry's Deputy-Directorate General for Chancellery, shall propose a specific person as Honorary Head of a Consular Post.

The aforesaid Note Verbale shall indicate this person's name, nationality, profession, address and consular rank. The person proposed must be resident in the place of appointment.

This Note Verbale must be accompanied by the corresponding curriculum vitae, and a photocopy of the Spanish National ID Card or, if he/she is not Spanish, an authenticated photocopy of his/her Residence Permit.

The Protocol Services, after studying the proposal, will inform of the resolution adopted by means of a Note Verbale.

15.6.2. Communicating the appointment and notifying the local authorities.

Once acceptance has been received, the Diplomatic Mission shall send the Deputy-Directorate General for Chancellery its Letter Patent

This Letter Patent must comply with the same requirements concerning the appointee's name and that of consular seat and district as in the case of career Consular Officers.

As in the case of Heads of Consular Posts and career Consular Officers, the Protocol Services will communicate acceptance in the form of exequatur, if a Letter Patent is involved, or in the text of a Note Verbale, in the case of notification of an appointment.

At the same time, the Deputy-Directorate General for Chancellery will notify the appointment to the local authorities so that the new Honorary Head of Consular Post may begin to exercise consular functions.

15.6.3. Provisional acceptance

The procedure for provisional acceptance of an Honorary Head of Consular Post is similar to that of a career Head, as described in Section 15.3.1.

15.6.4. Temporary exercise of functions

Should the post of Honorary Head of Consular Post become vacant due to absence, illness or termination of functions, the post may be exercised, on a temporary basis, by an Honorary Consular Officer of the same Consular Post, by a career Consular Officer seconded *ad hoc* or by a Diplomatic Agent from the Mission. In this latter case, this agent shall retain diplomatic privileges and immunities.

The Mission must inform the Protocol Services of this appointment with sufficient notice so that the latter may grant their approval, which in turn will be notified to the local authorities.

15.7. APPOINTMENT OF HONORARY CONSULAR OFFICERS

The procedure followed for their appointment and for notifying the local authorities is similar to that described for Honorary Heads of Consular Posts, except that, for their acceptance, it will be sufficient for the Diplomatic Mission to send the Deputy-Directorate General for Chancellery a photocopy of the appointment, duly authenticated by the Mission.

15.8. INCOMPATIBILITIES REGARDING HONORARY CONSULAR OFFICERS

A variety of reasons suggest that persons taking part in Spanish political or administrative life ought not to be entrusted with defending the interests of nationals of a foreign country.

Pursuant to Spanish practice on incompatibilities, the following persons may not hold positions as Honorary Consular Officers within Spain:

- 1.—High ranking officials and civil servants, whether civil or military, of the Central, Regional and Local Administrations and other personnel of the State, Autonomous Communities, Provinces or Municipalities, unless they have retired or withdrawn from public service and as long as their work in or professional relationship with the public sector subsists.
- 2.—Members of Parliament, until their mandate ends.
- 3.—Government Delegates or Deputy Delegates, whilst exercising their post. Subsequently, also, appointment as Honorary Consular Officers in the Autonomous Community or province where they exercised their functions shall not be authorised until two years have elapsed after concluding their services.
- 4.—Presidents of Provincial Councils or Insular Corporations, Provincial Councillors, members of Insular Corporations, Mayors and members of Local Corporations.
When an Honorary Consular Officer is elected or appointed to any of the above posts, this shall be notified to the

Ministry's Protocol Services, via the corresponding Embassy.

- 5.—Persons who have lost their Spanish citizenship, even if appointed by a country whose nationality they have acquired.

An exequatur or authorisation may be granted to civil servants pertaining to the State, Autonomous Communities, Province or Municipality who are teachers, lecturers or professors.

16. HOLDING OF ELECTIONS/REFERENDUMS

The Ministry of Foreign Affairs and Cooperation makes no objection, provided the Deputy-Directorate General for Chancellery is informed sufficiently in advance of the date, times and places where the voting is to take place, so that the necessary security arrangements can be established and, if appropriate, civil protection arrangements made by the competent authorities.

For reasons of security and public order, what is most desirable and, moreover, most common is for voting to take place on the premises of the Diplomatic Missions and Consular Posts, unless due to force majeure voting must take place elsewhere. In this case, the relevant Embassy shall hire or, if applicable, obtain the use of suitable premises from the corresponding authorities (Municipality, Autonomous Community, Government Delegation or Deputy Delegation, etc.).

Lastly, the Spanish Administration is willing to collaborate in resolving any difficulty or incident that might arise in this field.

