

qu'ils soient entrés dans les ports volontairement ou par suite de relâche forcée, seront réglées par leurs consuls, à moins que des ressortissants du pays de résidence de ce dernier, ou des ressortissants d'une tierce Puissance ne soient intéressés dans ces avaries. Dans ce cas, et à défaut de compromis amiable entre toutes les parties intéressées, les avaries seront réglées par les autorités locales.

*Article 31*

Les dispositions du présent Traité concernant les attributions des consuls s'appliqueront également aux agents diplomatiques des Hautes Parties Contractantes qui seront investis des fonctions consulaires et dont la désignation aura été notifiée à l'autre Partie par la voie diplomatique.

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**24. Consular Convention<sup>1</sup> between the United States of America and Ireland, signed at Dnhlin, on 1 May 1950<sup>2</sup>**

PART I

APPLICATION AND DEFINITIONS

*Article 1*

The territories of the High Contracting Parties to which the provisions of this Convention apply shall be understood to comprise all areas of land, air and water subject to the sovereignty or authority of either State, except the Panama Canal Zone.

*Article 2*

For the purpose of this Convention:

(1) The term "sending State" means, according to the context, the High Contracting Party by whom the consular officer is appointed, or all the territories of that party to which the Convention applies;

(2) The term "receiving State" means, according to the context, the High Contracting Party within whose territories the consular officer exercises the functions required by his office, or all the territories of that party to which the Convention applies;

(3) (a) The term "territory" means that particular territory of the receiving State in which the whole or part of a consular officer's district is situated;

(b) The States of the United States of America and the District of Columbia shall be regarded as a single territory, and each other territory subject to the sovereignty or authority of the United States of America shall be regarded as a separate territory, provided that for the purposes of article 13 the States of the United States, the District of Columbia, Alaska and Hawaii shall be regarded as a single territory, and provided that for

<sup>1</sup> United Nations, *Treaty Series*, vol. 222, p. 108.

<sup>2</sup> Came into force on 12 June 1954.

the purposes of article 18 each State of the United States and the District of Columbia shall be regarded as a separate territory;

(4) The term "national" shall, according to the context, be deemed to include any natural person or juridical entity possessing, as the case may be, the nationality of the receiving State or the sending State, and the term "person" shall be deemed to include any natural person or juridical entity;

(5) The term "vessel" of a High Contracting Party means any ship or craft documented or registered under the law of that High Contracting Party;

(6) The term "consular officer" means any person who is granted an exequatur or provisional or other authorization, for the performance of functions to which this Convention relates, by the appropriate authorities of the territory;

(7) The term "consular employee" means any person employed at a consulate for the performance of executive, administrative, clerical, technical or professional duties, or as consular guard, messenger or driver of a vehicle whose name has been duly communicated, in accordance with the provisions of paragraph (2) of article 6, to the appropriate authorities. It does not include any person employed on domestic duties;

(8) The term "archives" shall, where the context so permits, be deemed to include official correspondence, documents, papers, books, records, cash, stamps, seals, filing cabinets, safes and other office paraphernalia held or used for official purposes.

## PART II

### APPOINTMENTS AND DISTRICTS

#### *Article 3*

(1) Either High Contracting Party may establish and maintain consulates in the territories of the other at any place where any third State possesses a consulate and at any other place where the receiving State agrees to the establishment of a consulate. It shall be within the discretion of the sending State to determine whether the consulate shall be a consulate general, consulate, vice consulate, or consular agency.

(2) The sending State shall keep the receiving State informed of the district of each of its consulates and, subject to paragraph (3) of this article, may prescribe the limits of these districts at its discretion.

(3) The receiving State shall have the right to object to the inclusion within the consular district

- (a) Of any area which is not within a consular district and is not open to the Trade Commissioners or commercial representatives of a third State;
- (b) Of any territory of a third State.

(4) A consular officer may, upon notification to the receiving State, perform consular functions outside his consular district unless the receiving State objects.

*Article 4*

(1) Subject to the provisions of the subsequent paragraphs of this article, the sending State may assign to any of its consulates consular officers of such number and rank as it may deem necessary. The sending State shall notify the receiving State in writing of the assignment of a consular officer to a consulate.

(2) The exequatur or other authorization shall be granted as soon as possible and free of charge by the receiving State on presentation of the officer's commission or other notification of assignment. When necessary, a provisional authorization shall be accorded, pending the grant of an exequatur or other authorization.

(3) The exequatur or other authorization shall not be refused without good cause.

(4) The receiving State shall not be deemed to have consented to a consular officer's acting as such, or to have extended to him the benefits of the provisions of this Convention, until the receiving State has granted him an exequatur or other authorization.

*Article 5*

(1) The receiving State shall upon request inform without delay its appropriate authorities in such manner as it shall deem fit of the name of any consular officer entitled to act under this Convention.

(2) As an official agent of the sending State, a consular officer shall be entitled to special protection and to the high consideration of all officials of the receiving State with whom he has official intercourse.

(3) A consulate or a consular officer shall enjoy in the receiving State, in addition to the rights conferred by the terms of this Convention, and subject to reciprocity, treatment not less favourable than that accorded to a consulate or a consular officer of any third State, both as regards the privileges granted and the functions which may be performed.

(4) The receiving State may revoke the exequatur or other authorization of a consular officer whose conduct has given serious cause for complaint. The reason for such revocation shall, upon request, be furnished to the sending state through diplomatic channels.

*Article 6*

(1) A consular officer or employee may be assigned temporarily in an acting capacity to the duties of a consular officer who has died or is unable to act through illness, absence or other cause. Such acting officer may perform these duties and enjoy the benefit of the provisions of the Convention upon notification to the government of the territory, pending the assignment of a new officer or the confirmation of the acting officer.

(2) The sending State shall be free to employ the necessary number of consular employees at its consulates, whether its own nationals or nationals of the receiving State or of a third State. Consular officers shall keep the government of the territory informed of the names and addresses of these employees. It will be for the government of the territory to designate the particular authority to whom this information is to be given.

(3) The sending State may, with the permission of the receiving State, assign to the work of a consulate one or more members of its diplomatic mission accredited to the receiving State. In this event the provisions of article 4 shall apply as regards their consular assignment. These officers shall be entitled in their consular capacity and with regard to the performance of consular functions, to the benefits, and be subject to the obligations, of this Convention, without prejudice to any additional personal privileges to which they may be entitled if they are recognized also as diplomatic officers by the receiving State.

### PART III

#### LEGAL RIGHTS AND IMMUNITIES

##### *Article 7*

(1) The sending State may acquire under such form of tenure as it may choose, whether on lease, or in full ownership, or under such other form of tenure as may exist under the laws of the territory, and may thus hold and occupy, either in its own name or in the name of one or more natural or juridical persons acting on its behalf, land, buildings, parts of buildings, and appurtenances located in the territory and required by the sending State for the purpose of a consular office, or of a residence for a consular officer or employee, or for other purposes, to which the receiving State does not object, arising out of the operation of the consular establishment of the sending State. If, under the law of the territory, the permission of the authorities of the territory must be obtained as a prerequisite to any such acquisition, such permission shall be granted on request.

(2) The sending State shall have the right to erect, for any of the purposes specified in paragraph (1) of this article, buildings and appurtenances on land which it so owns or holds on lease, subject to compliance with local building, zoning, or town planning regulations, applicable to all land in the area in which such land is situated.

##### *Article 8*

(1) There may be placed, on the outer enclosure and outer wall of the building in which a consulate is installed, the coat-of-arms or national device of the sending State with an appropriate inscription designating the consulate in the language or languages of the sending State. It shall also be permitted to place such coat-of-arms or national device and inscription on or by the entrance door to the consular office.

(2) The flag of the sending State and its consular flag may be flown at the consulate. A consular officer may also place the coat-of-arms or device and fly the flag of the sending State and its consular flag on the vehicles, marine vessels and aircraft which he employs in the exercise of his duties. These flags may also be flown at the consular officer's residence.

(3) If the offices of a consulate are situated in a building which is also used for other purposes such as, for instance, the residence of the consular officer, the room or rooms where the consular business is conducted and the archives of the consulate are kept shall be separate from those used for other purposes. This provision does not require the separation of

diplomatic from consular rooms when a consular office forms part of a diplomatic mission.

(4) A consular office shall not be entered by the police or other authorities of the receiving State, provided such office is devoted exclusively to consular business, except with the consent of the consular officer or, if such consent is withheld or cannot be obtained, pursuant to appropriate writ or process and with the consent of the Secretary of State of the United States when the receiving State is the United States, or of the Minister for External Affairs of Ireland when the receiving State is the Republic of Ireland. The consent of the consular officer shall be presumed in the event of fire or other disaster or in the event that the authorities of the territory have probable cause to believe that a crime of violence has been or is being or is about to be committed in the consular office. The provisions of this paragraph shall not apply to a consular office which is in the charge of a consular officer who is a national of the receiving State, or who is not a national of the sending State.

(5) Neither a consular office, nor the flag of the sending State, shall be used to afford asylum to fugitives from justice or to defeat legal process. If a consular officer shall refuse to surrender a fugitive from justice on the lawful demand of the authorities of the territory, these authorities may, subject to paragraph (4) of this article, if necessary, enter the consular office to apprehend the fugitive.

(6) Any entry into or search of a consular office pursuant to paragraphs (4) and (5) of this article, shall be conducted with due regard to the inviolability of the consular archives, as provided in paragraph (1) of article 10.

(7) A consular officer shall not take advantage of the privileges accorded to the consular office by this Convention for any purpose not connected with the exercise of his consular functions.

#### *Article 9*

(1) Land, buildings and parts of buildings, and appurtenances, including the furniture and equipment therein, held or occupied exclusively for any of the purposes specified in paragraph (1) of article 7, as well as the vehicles marine vessels and aircraft of a consulate, shall not be subject to military requisitions or billeting. Such land, buildings and parts of buildings, and appurtenances shall not be immune from expropriation or seizure for purposes of national defense or public utility in accordance with the law of the territory, but if it is necessary to take any such measure with regard to any such property, every consideration shall be shown to avoid interference with the performance of consular functions.

(2) In addition, a consular officer or employee, provided that in both cases he complies with the conditions set out in paragraph (5) of this article, his private residence, furniture and other household articles, and all vehicles marine vessels and aircraft held or possessed by him, shall enjoy exemption from all military requisitions contributions or billeting. This privilege shall not be extended to other property belonging to him. The residence of a consular officer or employee shall not be immune from expropriation or seizure for purposes of national defense or public utility in accordance with the law of the territory.

(3) Further, due compensation shall be paid for expropriation or seizure

in respect of all proprietary interests in a consulate, including all land, buildings, parts of buildings, and appurtenances, held or occupied exclusively for any of the purposes specified in paragraph (1) of article 7, vested in the sending State or in a consular officer or employee who complies with the conditions of paragraph (5) of this article. Such compensation shall be payable at the legally usable rate of exchange most favourable to the sending State at the time when the property was expropriated or seized, in a form readily convertible into the currency of and transferable to the sending State, and shall be paid not later than the date on which the consulate or consular officer or employee is deprived of possession.

(4) A consular officer or an employee, provided that he complies with the conditions set out in paragraph (5) of this article, shall enjoy exemption from military, naval, air, police, administrative or jury service of every kind.

(5) The conditions referred to in paragraphs (2), (3) and (4) of this article are that the person concerned should

- (a) Be a national of the sending State and not a national of the receiving State; and
- (b) Not be engaged in private occupation for gain in the territory; and
- (c) Not have been normally resident within the territory at the time he was appointed to the consulate.

#### *Article 10*

(1) The archives kept in a consulate shall at all times be inviolable and the authorities of the territory may not under any pretext examine or detain any of them. The archives of a consulate shall be kept separate from papers, books or correspondence of a consular officer or employee relating to other matters. This provision does not require the separation of diplomatic from consular archives when a consular office forms part of a diplomatic mission.

(2) A consular officer may communicate with his government, or with the diplomatic mission under whose superintendence he is, by post, telegraph, telephone and wireless, provided that when the receiving State is at war the right of communication with the diplomatic mission, if it is situated outside the territories of the receiving State, may be restricted. In addition, he may at all times send and receive official correspondence by sealed consular pouches, bags and other containers and may use secret language. This right shall also extend to correspondence with other consulates and diplomatic missions of the sending State, or with the authorities of other territories of that State, except that, when the receiving State is at war, this extended right may be restricted.

(3) The official consular correspondence referred to in the preceding paragraph shall be inviolable and the authorities of the territory shall not examine or detain it. Sealed consular pouches, bags and other containers shall be inviolable when they contain nothing but official communications and documents and are so certified by a responsible officer of the sending State.

(4) A consular officer or employee shall be entitled to refuse a request from the courts or authorities of the territory to produce any portion of his archives or to give evidence relating to matters within the scope of his

official duties. Such a request shall, however, be complied with in the interests of justice if, in the judgment of the consular officer or employee, it is possible to do so without prejudicing the interests of the sending State. A consular officer is also entitled to decline to give evidence as an expert witness with regard to the laws of the sending State.

*Article 11*

(1) (a) A consular officer or employee shall not be liable, in proceedings in the courts of the receiving State, in respect of acts performed in his official capacity, falling within the functions of a consular officer under this Convention, unless the sending state requests or assents to the proceedings through its diplomatic representative.

(b) A consular officer who is a national of the sending State and not a national of the receiving State and not engaged in private occupation for gain in the receiving State, shall be exempt from arrest or prosecution in the receiving State except when charged with the commission of a crime which, upon conviction, might subject the individual guilty thereof to a sentence of imprisonment for a period of one year or more.

(2) It is understood that the provisions of paragraph (1) (a) of this article do not preclude a consular officer or employee from being held liable in a civil action arising out of a contract concluded by him in which he did not expressly contract as agent for his government and in which the other party looked to him personally for performance, and that the provisions of paragraph (4) of article 10 do not entitle a consular officer or employee to refuse to produce any document or to give evidence relating to such a contract.

(3) A consular officer or employee may be required to give testimony in either a civil or a criminal case, except as provided in paragraph (4) of article 10. The authorities and court requiring his testimony shall take all reasonable steps to avoid interference with the performance of his official duties. The court requiring the testimony of a consular officer who satisfies the conditions of paragraph (5) of article 9 shall, wherever possible or permissible, arrange for the taking of such testimony, orally or in writing, at his residence or office.

(4) A consular officer and his wife and minor children who are residing with their parents shall be exempted in the territory from the requirements of the law of the territory with regard to the registration of foreigners and permission to reside, and shall not be subject to deportation while the consular officer holds his exequatur or other authorization.

(5) All motor vehicles, marine vessels and aircraft owned by the sending State and used by the consulate or owned by a consular officer or employee will be adequately insured by policies against third party risks. Any claim arising under any such policy shall be deemed to be a claim arising out of a contract involving liability in a civil action, as contemplated in paragraph (2) of this article.

PART IV

FINANCIAL PRIVILEGES

*Article 12*

(1) No tax or other similar charge of any kind, national, State, provincial, municipal, or other, shall, in the territory, be collected from the

sending State or any natural or juridical person acting on its behalf in respect of land, buildings, parts of buildings, or appurtenances owned or otherwise held or occupied by or on behalf of the sending State, or in respect of buildings or parts of buildings erected by or on behalf of the sending State, and used exclusively for any of the purposes specified in paragraph (1) of article 7, except taxes or other assessments levied for services or local public improvements by which and to the extent that the premises are benefited.

(2) No tax or other similar charge of any kind, national, State, provincial, municipal, or other, shall, in the territory, be collected from the sending State, or any natural or juridical person acting on its behalf, in respect of the acquisition, ownership, possession, or use of movable property owned or used by the sending State exclusively for any of the purposes specified in paragraph (1) of article 7.

(3) No tax or other similar charge of any kind shall, in the territory, be collected from the sending State in respect of transactions or instruments relating to the acquisition and holding of immovable property for any of the purposes specified in paragraph (1) of article 7.

#### *Article 13*

(1) (a) No tax or other similar charge of any kind shall be imposed on or collected from the sending State in the territory by the receiving State, or by any State, province, municipality, or other local subdivision thereof, in respect of fees received on behalf of the sending State in compensation for consular services, or in respect of any receipt given for the payment of such fees.

(b) The sending State or a consular officer or employee thereof shall be exempt in the territory from all taxes and other similar charges of any kind imposed or collected by the receiving State, or by any State, province, municipality, or other local subdivision thereof, in respect of acts performed in the course of the officer's or employee's official functions. This exemption shall not apply to taxes or other similar charges in respect of which some other person is legally liable, notwithstanding that the burden of the tax or other similar charge may be passed on to the sending State or the consular officer or employee.

(2) No tax or other similar charge of any kind shall be imposed or collected in the territory by the receiving State, or by any State, province, municipality, or other local subdivision thereof, in respect of the official emoluments, salaries, wages, or allowances received as compensation for his consular services by a consular officer, unless he is a national of the receiving State and is not also a national of the sending State.

(3) The provisions of paragraph (2) of this article also apply to the official emoluments, salaries, wages, or allowances received by a consular employee as compensation for his services at a consulate, unless such consular employee is a national of the receiving state and is not also a national of the sending State.

(4) Without prejudice to the preceding paragraphs of this article, a consular officer or employee who is

(a) A national of the sending State and not a national of the receiving State,



(b) Not engaged in private occupation for gain in the territory, and

(c) A permanent employee of the sending State, shall, except as provided in paragraph (5) of this article, be exempt in the territory from all taxes or other similar charges of any kind which are or may be imposed or collected by the receiving State, or by any State, province, municipality, or other local subdivision thereof.

(5) (a) The provisions of paragraph (4) of this article shall apply only to taxes or other similar charges in respect of which the consular officer or employee would, in the absence of the exemption provided by this article, be the person legally liable, and shall not apply to taxes or other similar charges in respect of which some other person is legally liable, notwithstanding that the burden of the tax or other similar charge may be passed on to the consular officer or employee, or to duties or taxes payable on the withdrawal from bonded warehouses of goods the product, manufacture, or growth of the receiving State. If, however, a consular officer or employee who satisfies the conditions of paragraph (4) of this article is entitled to income from sources outside the territory but that income is payable to him, or collected on his behalf, by a banker or other agent within the territory who is required to deduct income tax on payment of the income and to account for the tax so deducted, the consular officer or employee shall be entitled to repayment of the tax so deducted.

(b) The provisions of paragraph (4) shall not apply to

- (i) Taxes imposed or collected on the ownership or occupation of immovable property situated within the territory;
- (ii) Taxes on income derived from sources within the territory;
- (iii) Taxes imposed or collected on the passing of property on death, such as estate, inheritance and succession taxes, whether the consular officer or employee is the person who dies or the person to whom the property passes on death;
- (iv) Taxes on transactions or instruments effecting transactions, such as taxes on the sale or transfer of money or property, or stamp duties imposed or collected in connection therewith; and
- (v) Taxes and duties imposed upon, or by reason of, importation of articles into the territory which are dealt with exclusively in article 14.

(6) Nothing in this Convention shall prejudice any claim for exemption from taxation which could be made under the Conventions signed September 13, 1949, between the United States of America and the Republic of Ireland.

#### *Article 14*

(1) All furniture, equipment, supplies, building materials and other articles, including vehicles, marine vessels and aircraft, intended for official use in the territory in connection with any of the purposes specified in paragraph (1) of article 7 shall be permitted entry into the territory free of all taxes or duties imposed upon, or by reason of, importation.

(2) Baggage and effects and other articles, including vehicles, marine vessels and aircraft, imported into the territory by a consular officer or employee, provided that he fulfils the conditions specified in paragraph (4) of article 13, exclusively for his personal use and the use of members of his

family forming part of his household, shall be exempt from all taxes or duties, nationals, State, provincial, municipal, or other, imposed upon, or by reason of, importation, whether accompanying him to his consular post, either upon first arrival or upon subsequent arrivals, or subsequently consigned to him at his post and imported at any time while he is assigned to or employed at such post.

(3) It is, however, understood that:

(a) The receiving State may, as a condition to the granting of the exemption provided in this article, require that a notification of any importation be given in such manner as it may prescribe;

(b) The exemption provided in this article, being in respect of articles imported for official or personal use only, does not extend, *inter alia*, to articles imported as an accommodation to others or for sale or for other commercial purposes. However, articles imported as samples of commercial products solely for display within a consulate, shall not be regarded as excluded from the exemption provided in this article;

(c) The receiving State may determine that the exemption provided by this article does not apply in respect of articles grown, produced or manufactured in the territory which have been exported therefrom without payment of, or upon repayment of, taxes or duties, which would have been chargeable but for such exportation;

(d) Nothing herein shall be construed to permit the entry into the territory of any article the importation of which is specifically prohibited by law.

(4) Articles the importation of which into the territory is subject to quantitative restriction may be imported by a consular officer or employee over and above any quota or other quantitative limit applicable at the same time and on the same conditions as would have entitled them, had they been liable for any taxes or duties imposed upon, or by reason of, importation, to exemption therefrom under the foregoing provisions of this article.

#### PART V

#### PROTECTION OF NATIONALS

##### *Article 15*

(1) A consular officer shall be entitled within his district to

(a) Interview, communicate with and advise any national of the sending state;

(b) Inquire into any incidents which have occurred affecting the interests of any such national;

(c) Assist any such national in proceedings before or in relations with the authorities of the territory, and, where necessary, arrange for legal assistance for him.

(2) For the purposes of the protection of the nationals of the sending State and their property and interests, a consular officer shall be entitled to apply to and correspond with the appropriate authorities within his district and the appropriate departments of the central government of the territory. He shall not, however, be entitled to correspond with or to make diplomatic claims to the Department of State or the Department of External

Affairs, as the case may be, except in the absence of any diplomatic representative of the sending State.

(3) A national of the sending State shall have the right at all times to communicate with the appropriate consular officer and, unless subject to lawful detention, to visit him at his consulate.

#### *Article 16*

(1) A consular officer shall be informed immediately by the appropriate authorities of the territory when any national of the sending State is confined in prison, is awaiting trial or is otherwise detained in custody within his district, unless such national shall request that such information not be given. A consular officer shall be permitted to visit without delay, to converse privately with and to arrange legal representation for, any national of the sending state who is so confined or detained. Any communication from such a national to the consular officer shall be forwarded without delay by the authorities of the territory.

(2) Where a national of the sending State has been convicted and is serving a sentence of imprisonment, the consular officer in whose district the sentence is being served shall, upon notification to the appropriate authority, have the right to visit him in prison. Any such visit shall be conducted in accordance with prison regulations, which shall permit reasonable access to and opportunity of conversing with such national. The consular officer shall also be allowed, subject to the prison regulations, to transmit communications between the prisoner and other persons.

### PART VI

#### NOTARIAL ACTS AND OTHER SERVICES

#### *Article 17*

(1) A consular officer may, within his district

(a) Receive such declarations, grant such certificates, make such registrations and perform such other acts as may be required to be made under the nationality laws of the sending State;

(b) Issue such notices to, and receive such declarations from, a national of the sending State as may be required under the laws of the sending State with regard to compulsory national service;

(c) Register the birth or death of a national of the sending State and record a marriage celebrated under the law of the territory when at least one of the parties is a national of the sending State;

(d) Receive, draw up or execute any declaration, transfer, or other document prescribed by the law of the sending State in connection with the transfer to the register, or documentation, of the sending state of any vessel and its removal from the register, or documentation, and with the transfer of any vessel on the register, or documentation, from one owner to another, and with the registration, or documentation, of any mortgage or charge upon such a vessel;

(e) Issue passports and travel documents to a national of the sending State and grant visas and other appropriate documents to a person seeking entry into the sending State;

(f) Further the commercial, artistic, scientific, professional and educational interests of the sending State;

(g) Serve or cause to be served judicial documents or take evidence on behalf of courts of the sending State in a manner permitted under special arrangements on this subject between the High Contracting Parties or otherwise not inconsistent with the laws of the territory.

(2) It is understood that consular registration of a birth or death and the recording by a consul of a marriage celebrated under the law of the territory in no way exempts a private person from any obligation laid down in the law of the territory with regard to the notification and registration of births, deaths or marriages with the authorities of the territory.

(3) A consular officer may, within his district, draw up and receive declarations, and may legalise, authenticate, or certify signatures or documents, translate documents and perform other notarial acts in connection with documents in any case where these services are required by a person of any nationality for use in the sending State or under the law in force in the sending state. If under that law the administration of an oath or affirmation is required, the oath or affirmation may be administered. A consular officer may also perform these functions in connection with documents required by a national of the sending State for use elsewhere, but it is understood that this provision involves no obligation on the authorities of the receiving state to recognise the validity of notarial acts performed by a consular officer in connection with documents required under the law of the receiving State.

## PART VII

### ESTATES AND TRANSFER OF PROPERTY

#### *Article 18*

(1) In any case, where a deceased person leaves property in a territory and a legal or equitable interest in such property, such as that of an executor or beneficiary under a will or in case of intestacy, is held or claimed by a national of the sending State who is not resident in the territory and is not legally represented there, the consular officer in whose district the estate of the deceased person is being administered or, if no administration has been instituted, in which the property is situated, shall have the right to represent such national as regards his interests in the estate or property as if valid powers of attorney had been executed by him in favour of the consular officer. If subsequently such national becomes legally represented in the territory, the consular officer's position shall be as if he previously had from the national a power of attorney which ceased to be operative as from the date when the consular officer is informed that such person is otherwise legally represented.

(2) The provisions of paragraph (1) of this article apply whatever the nationality of the deceased person and irrespective of the place of his death.

(3) In any case, where a consular officer has a right of representation under paragraph (1) of this article, he shall have the right to take steps for the protection and preservation of the interests of the person whom he is entitled to represent. He shall also have the right to take possession of

the estate or the property unless another person, having superior interests, has taken the necessary steps to assume possession thereof. If under the laws of the territory a grant of representation or order of a court is necessary for the purpose of enabling the consular officer to protect or to take possession of the property, any grant or order which would have been made in favour of the person whose interests are represented by the consular officer, if that person had been present and applied for it, shall be made in favour of the consular officer on his application. On *prima facie* evidence of the necessity for the immediate protection and preservation of the estate and of the existence of persons with an interest which the consular officer has a right to represent, the court, if satisfied as to such necessity, shall make a grant or an order to the consular officer for the purpose of protecting and preserving the estate, unless another person with equal or prior rights makes the necessary application.

(4) (a) Subject to sub-paragraphs (b) and (c) of this paragraph, the consular officer shall have the same right to full administration of the estate to the same extent as a person whose interest he represents would have had if he had been present. If by the law of the territory a grant by a court is necessary, the consular officer shall have the same right to apply for and to receive a grant on his application as the person he represents would have had if he had been present and applied for it.

(b) The court may, if it thinks fit, postpone the making of a grant to the consular officer for such time as it thinks necessary to enable the person represented by the consular officer to be informed and to decide whether he desires to be represented otherwise than by the consular officer.

(c) The court may, if it thinks fit, order the consular officer to furnish reasonable evidence of the receipt of the assets by those entitled by law to them or to repay or return those assets to the court in the event of his being unable to furnish such evidence, or it may order that, the consular officer having otherwise fully administered the estate, the actual transmission of the assets to those persons shall be effected through such other channels as it may direct.

(5) Where in the territory it is permitted to receive and distribute an estate of small value without first obtaining a grant of representation, a consular officer of the sending State shall be allowed, without obtaining such a grant, to receive and dispose of such an estate of a national of the sending State in accordance with the laws of the territory.

(6) If a consular officer exercises the rights referred to in the preceding paragraphs of this article with regard to an estate, he shall in that matter be subject to the law of the territory and to the jurisdiction of the courts of the territory in the same manner as a national of the receiving State.

(7) In any case where it is brought to the knowledge of the appropriate local authorities of the territory that

(a) There is an estate in the territory with regard to which the consular officer may have a right to represent interests under the preceding paragraphs of this article; or

(b) A national of the sending State has died in the territory and it appears that there is not present or represented in the territory any person, other than a public administrator or similar official, entitled to claim administration of any property which the deceased may have left there, the consular officer shall be informed to this effect.

*Article 19*

A consular officer may receive, for transmission to a national of the sending State who is not resident in the territory, from a court, agency, or person, money or property to which such national is entitled as a consequence of the death of any person. Such money or property may include, but is not limited to shares in an estate, payments made pursuant to workmen's compensation laws or any similar laws and the proceeds of life insurance policies. The court, agency or person making the distribution is not obliged to transmit such money or property through the consular officer, and the consular officer is not obliged to receive such money or property for transmission. If he does receive such money or property, he shall comply with any conditions laid down by such court, agency or person with regard to furnishing reasonable evidence of the receipt of the money or property by the national to whom it is to be transmitted and with regard to returning the money or property in the event that he is unable to furnish such evidence.

*Article 20*

Money or other property may be paid, delivered or transferred to a consular officer pursuant to the provisions of articles 18 and 19 only to the extent that, and subject to the conditions under which, payment, delivery or transfer to the person whom the consular officer represents or on whose behalf he receives the money or property would be permitted under the laws and regulations of the receiving State. The consular officer shall acquire no greater rights in respect of any such money or other property than the person whom he represents or on whose behalf he receives the money or property would have acquired if the money or property had been paid, delivered or transferred to such person directly.

## PART VIII

## SHIPPING

*Article 21*

(1) When a vessel of the sending State visits a port, which includes any place to which a vessel may come, in the receiving State, the master and the members of the crew of the vessel shall be permitted to communicate with the consular officer in whose district the port is situated and the consular officer shall be permitted freely to perform the duties enumerated in article 22 without interference on the part of the authorities of the territory. For the purpose of performing any of these duties, the consular officer, accompanied, if he desires, by consular employees on his staff, may proceed personally on board the vessel after she has received pratique. In connection with these duties the master and appropriate members of the crew may proceed to the consular office in the consular district within which the vessel lies, unless the receiving State shall, on its own initiative, object in cases involving unreasonable time or distance of travel.

(2) The consular officer may invoke the assistance of the authorities of the territory in any matter pertaining to the performance of these duties, and they shall give the requisite assistance unless they have special reasons which would fully warrant refusing it in a particular case.

*Article 22*

(1) The consular officer may question the master and members of the crew of a vessel referred to in article 21, examine the vessel's papers, take statements with regard to the vessel's voyage and her destination and generally facilitate the entry and departure of a vessel referred to in article 21. When Custom House brokers or shipping agents are available, the consular officer shall not undertake work normally within the scope of their activities.

(2) The consular officer or a consular employee may appear with the master or members of the crew of a vessel referred to in article 21 before the local authorities and courts, may lend his assistance, including, where necessary, arranging for legal aid, and may act as interpreter in matters between them and these authorities. These rights may be withheld only in cases where questions of national security are involved.

(3) The consular officer may, provided the judicial authorities of the territory do not take jurisdiction in accordance with the provisions of article 23, decide disputes between the master and members of the crew of a vessel referred to in article 21, including disputes as to pay and contracts of service, arrange for the engagement and discharge of the master and members of the crew, and take measures for the preservation of good order and discipline on the vessel.

(4) The consular officer may take measures for the enforcement of the shipping law of the sending State.

(5) The consular officer may, where necessary, make arrangements for the repatriation and the treatment in a hospital of the master or members of the crew of a vessel referred to in article 21.

*Article 23*

(1) Except at the request or with the consent of the consular officer, the administrative authorities of the territory shall not concern themselves with any matter concerning the internal management of a vessel referred to in article 21. The judicial authorities of the territory may, however, exercise any jurisdiction which they may possess under the law of the territory with regard to disputes as to wages and contracts of service between the master and members of the crew of a vessel referred to in article 21. The administrative and judicial authorities will not interfere with the detention in custody on a vessel referred to in article 21 of a seaman for disciplinary offences, provided such detention is lawful under the law of the sending State and is not accompanied by unjustifiable severity or inhumanity.

(2) Without prejudice to the right of the administrative and judicial authorities of the territory to take cognizance of crimes or offences committed on board a vessel referred to in article 21 when she is in the ports or in the territorial waters of the territory and which are cognizable under the local law or to enforce local laws applicable to vessels in ports and territorial waters or persons and property thereon, it is the common intention of the High Contracting Parties that the administrative and police authorities of the territory should not, except at the request or with the consent of the consular officer,

(a) Concern themselves with any matter taking place on board a vessel

referred to in article 21 unless for the preservation of peace and order or in the interests or public health or safety, or

- (b) Institute prosecutions in respect of crimes or offences committed on board a vessel referred to in article 21 unless they are of a serious character or involve the tranquillity of the port or unless they are committed by or against persons other than the crew.
- (3) If, for the purpose of the exercise of the rights referred to in paragraph (2) of this article, it is the intention of the authorities of the territory to arrest or question any person or to seize any property or to institute any formal inquiry on board a vessel referred to in article 21, the master or other officer acting on his behalf shall be given an opportunity to inform the consular officer and, unless this is impossible on account of the urgency of the matter, to inform him in such time as to enable the consular officer or a consular employee on his staff to be present if he so desires. If the consular officer has not been present or represented, he shall be entitled, on his request, to receive from the authorities of the territory full information with regard to what has taken place. The provisions of this paragraph do not apply to routine examinations by the authorities of the territory with regard to customs, health and the admission of aliens, or to detention of a vessel referred to in article 21 or of any portion of her cargo arising out of civil or commercial proceedings in the courts of the territory.

#### *Article 24*

(1) A consular officer shall have the right, so far as the authorities of the receiving State are concerned, to inspect, at ports within his consular district, a vessel of any flag destined to a port of the sending State, in order to enable him to procure the necessary information to prepare and execute such documents as may be required by the law of the sending State as a condition of entry of such vessel into its ports, and to furnish to the competent authorities of the sending State such information with regard to sanitary or other matters as such authorities may require.

(2) In exercising the right conferred upon him by this article, the consular officer shall act with all possible despatch.

#### *Article 25*

(1) If a vessel of the sending State is wrecked in the receiving State, the consular officer in whose district the wreck occurs shall be informed as soon as possible by the appropriate authorities of the territory of the occurrence of the wreck.

(2) The appropriate authorities of the territory shall take all practicable measures for the preservation of the wrecked vessel, of the lives of persons on board, of the cargo and of other property on board, and for the prevention and suppression of plunder or disorder on the vessel. These measures shall also extend to articles belonging to the vessel or forming part of her cargo which have become separated from the vessel.

(3) If the vessel is wrecked within a port or constitutes a navigational hazard within the territorial waters of the receiving State, the authorities of the territory may also order any measures to be taken which they consider necessary with a view to avoiding any damage that might otherwise be caused by vessel to the port facilities or to other vessels.



(4) If the owner of the wrecked vessel, his agent, or the underwriters concerned, or the master are not in a position to make arrangements, the consular officer shall be deemed to be authorized to make, as agent for the owner, the same arrangements as the owner himself could have made, if he had been present, for the disposal of the vessel in accordance with the relevant provisions of the law of the territory.

(5) No customs duties, including other duties imposed upon, or by reason of, the importation of goods into the territory, shall be levied by the authorities of the territory on the cargo, stores, equipment and fittings, or articles, carried by or forming part of the wrecked vessel, unless they are delivered for use or consumption in the territory, but the authorities of the territory may, if they think fit, require security for the protection of the revenue in relation to such goods.

(6) No charge, other than customs duties, when they are applicable in accordance with paragraph (5) of this article, shall be levied by the authorities of the territory in connection with the wrecked vessel, any property on board, or her cargo, other than charges of the same kind and amount as would be levied in similar circumstances upon or in connection with vessels of the receiving State.

#### *Article 26*

Where any articles belonging to or forming part of a wrecked vessel of any flag, not being a vessel of the receiving State or belonging to or forming part of the cargo of any such vessel, are found on or near the coast of the receiving State or are brought into any port of that State, the consular officer in whose district the articles are found or brought into port shall be deemed to be authorized to make, as agent of the owner of the articles, such arrangements relating to the custody and disposal of the articles as the owner himself could have made, if,

- (a) In the case of articles belonging to or forming part of the vessel, the vessel is a vessel of the sending State or, in the case of cargo, the cargo is owned by nationals of the sending State; and
- (b) Neither the owner of the articles, nor his agent, the underwriter, or the master of the vessel is in a position to make these arrangements.

#### *Article 27*

(1) If the master or a member of the crew of a vessel of the receiving State, being a national of the sending State, dies afloat or ashore in any country, the competent department of the receiving State shall furnish promptly to a consular officer copies of the accounts which may be received by it with respect to the wages and effects of the deceased master or seaman, together with any particulars at the disposal of the department likely to facilitate the tracing of persons legally entitled to succeed to the property of the deceased.

(2) In every case where the value of wages and effects of the deceased master or seaman, together with any other property of his which comes into the control of the competent department, does not exceed £100 Irish currency where the competent department is an authority of the Republic of Ireland, or \$300.00 where the competent department is an authority

of the United States, and the competent department is satisfied that there is any person entitled to succeed to the property of the deceased, otherwise than as a creditor, and that this person is resident in the sending State, the competent department will hand over the wages, effects and property in its custody of the deceased master or seaman to a consular officer. However, the competent department will have the right, before handing over, to meet out of the master's or seaman's assets under its control any claim against his estate of any person resident elsewhere than in the sending State, which it considers to be legally due. Any claim against the estate of the deceased master or seaman, which is received by that department after handing over, shall be referred to the competent department of the sending State. In the case of the Republic of Ireland the competent department will be the Department of Industry and Commerce. In the case of the United States the competent department will be the Federal District Court for the port where the voyage on which the deceased master or seaman died is competent. It is understood that the Treasury Department, United States Coast Guard, will be prepared to receive and transmit to the appropriate court all correspondence relating to such claims.

(3) In any case where the competent department does not hand over to a consular officer the wages and effects and other property in its custody of a deceased master or seaman, when the conditions for this purpose stated in paragraph (2) of this article are fulfilled, the competent department shall, before delivering the assets to any person considered to be entitled to succeed to the property of the deceased, give notice to a consular officer of its intention, stating the person to whom it is proposed to deliver them, in order to give the consular officer a reasonable opportunity to furnish information which may be relevant for the final decision as to the person entitled to receive the property or to the existence of other claims on the estate of which the competent department may be unaware.

(4) The provisions of paragraphs (2) and (3) of this article do not apply where the competent department delivers assets in its custody to a person who has obtained a grant of representation from a court in the receiving state, but in this case it shall promptly inform the consular officer to this effect.

#### PART IX

#### FINAL PROVISIONS

##### *Article 28*

(1) The provisions of articles 15 to 27 relating to the functions which a consular officer may perform are not exhaustive. A consular officer shall be permitted to perform other functions, involving no conflict with the law of the receiving State, which are either in accordance with international law or practice relating to consular officers recognised in the receiving state or are acts to which no objection is taken by the receiving state. A consular officer may levy the fees prescribed by the sending State for the performance of consular services.

(2) It is understood that in any case where any article of this Convention gives a consular officer the right to perform any functions, it is for the sending state to determine to what extent its consular officers shall exercise such right.

(3) Without derogation to such rights and benefits as they have under international law, officers or employees with diplomatic status and diplomatic property shall be accorded rights, benefits and immunities no less favourable than those accorded under this Convention.

(4) The provisions of this Convention with regard to shipping shall apply *mutatis mutandis* to aviation except where inconsistent with aviation practice or the terms of any international agreement relating to aviation to which either of the High Contracting Parties is or may become a party.

*Article 29*

The provisions of article IV of the Treaty of Commerce and Navigation, signed at London on July 3, 1815, and the provisions of article III of the Convention relating to the Tenure and Disposition of Real and Personal Property, signed at Washington on March 2, 1899, are hereby superseded as regards relations between the High Contracting Parties in respect of the territories to which this Convention applies.

*Article 30*

(1) This Convention shall be ratified and the instruments of ratification thereof shall be exchanged at Washington. The Convention shall take effect on the thirtieth day after the date of exchange of the instruments of ratification and shall continue in force for the term of five years.

(2) Unless six months before the expiration of the aforesaid term of five years, either High Contracting Party shall have given notice to the other of the intention to terminate this Convention, the Convention shall continue in force after the aforesaid term and until six months from the date on which either High Contracting Party shall have given to the other notice of termination.

NOTE: Similar provisions may be found in the Convention concluded by the United Kingdom with Norway, 22 February 1951 (United Nations, *Treaty Series*, vol. 326, p. 210); Italy, 1 June 1954 (*ibid.*, vol. 403), and Greece, 17 April 1953 (*ibid.*, vol. 191, p. 180). These treaties have been ratified.

**25. Treaty<sup>1</sup> of Peace and Friendship between the Government of  
India and the Government of Nepal, signed at Kathmandu,  
on 31 July 1950<sup>2</sup>**

. . .

*Article 4*

The two Governments agree to appoint Consuls-General, Consuls, Vice-Consuls and other consular agents, who shall reside in towns, ports and other places in each other's territory as may be agreed to.

Consuls-General, Consuls, Vice-Consuls and consular agents shall be provided with exequaturs or other valid authorization of their appointment.

<sup>1</sup> United Nations, *Treaty Series*, vol. 94, p. 4.

<sup>2</sup> Came into force on 31 July 1950.