

NOTE: Similar provisions are to be found in the Convention concluded by the United States of America with Sweden, 1 June 1910 (*British and Foreign State Papers*, 1909-1910, vol. CIII, p. 1004). This Treaty has been ratified.

4. Consular Convention¹ between Italy and the Republic of Guatemala, signed at Guatemala, November 13, 1905²

Article I

Either of the High Contracting Powers will have the faculty of nominating Consuls-General, Consuls, Vice-Consuls, and Consular Agents in the ports, cities, and towns of the other, reserving to themselves respectively the right to except such places as they may deem advisable; but this exception may not be imposed on either of the High Contracting Parties unless equally imposed on all other Powers.

Article II

Consuls-General, Consuls, Vice-Consuls, and Consular Agents will be admitted and recognized reciprocally after the presentation of their Commissions, in accordance with the rules and formalities observed in the respective countries.

The exequatur needed for the free exercise of their functions will be issued without cost, and when the exequatur is presented the chief authorities in the place of residence of the consular officer will immediately make such dispositions as will enable the consular officer to fulfil the duties of his office and enjoy the exemptions, prerogatives, privileges, immunities, and honours attached to it.

Article III

Consular officers, whether Consuls-General, Consuls, Vice-Consuls, or Consular Agents, subjects of the State nominating them, will enjoy exemption from military billeting, or any other duty or public service, municipal or otherwise.

They will likewise be exempt from military contributions and direct contributions, whether personal or general and sumptuary, imposed by the State and by the provincial and municipal authorities, provided they do not possess real estate, are not in business, and do not follow any industry or profession, in which case they will be subject to the same charges, services, and contributions as are imposed upon natives.

Article IV

Consuls-General, Consuls, Vice-Consuls, and Consular Agents may affix to the outside of the doors of their offices the coat-of-arms of their country, with the inscription: "Consulate," "Vice-Consulate," or "Consular Agency of . . ."

¹ *British and Foreign State Papers*, 1904-1905, vol. XCVIII, p. 725.

² The exchange of ratifications took place at Guatemala, June 2, 1906.

They may also fly the flag of their country over the Consular residence on days of public or national festivity, as also on other customary days.

They will also have the right to fly their national flag on the boats they use in the ports in the exercise of their duties.

Article V

The Consular archives are inviolable, and the territorial authorities may not under any circumstances examine or sequester the documents belonging thereto; but in the case of any offence the Consuls, Vice-Consuls, and Consular Agents are obliged to show to the local authorities the original documents which may have been impugned, so that the authorities themselves may make the necessary verifications.

All consular documents must be kept separate from the books and papers which may be in use in the business or industry followed by the respective Consuls, Vice-Consuls, or Consular Agents.

Article VI

In the case of impediment, absence, or death of Consuls-General, Consuls, and Vice-Consuls, the Consular Attachés, Chancellors, and Secretaries who are recognized and have been presented to the local authorities as such, will be permitted to act on giving due notice, and will be enabled, according to their standing, to exercise Consular functions temporarily, the authorities having no right to place any difficulties in their way. On the contrary, they are to give such officers all assistance and protection, and to accord them during their temporary office all the exemptions, prerogatives, and privileges stipulated for in the present Convention in favour of Consular Agents generally.

Article VII

Consuls-General and Consuls may appoint Vice-Consuls and Consular Agents in the cities, ports, and towns within their respective districts, provided that the approval of the territorial authorities be obtained.

Such officers may be selected at will from among citizens of either country, or from among foreigners, and will be provided with a patent issued by the Consul nominating them, and under whose orders they are to exercise their functions.

They will enjoy the same privileges stipulated for in the present Convention, with the exception of those contained in Article III.

Article VIII

Consuls-General, Consuls, Vice-Consuls, and Consular Agents may address themselves to the authorities of their district to protest against any infraction of Commercial Conventions or Treaties existing between the two countries or against any injury their countrymen may complain about.

Article XII

Consuls-General, Consuls, Vice-Consuls, and Consular Agents, or their Chancellors, will have the right to receive in their chanceries, in the houses of the parties, and on board vessels of their own country, any declarations to be made by the captain, crew, passengers, merchants, or any other subject of their country.

Likewise they will have the right, acting as notaries, to receive the testamentary depositions of their co-nationals, and to perform any other notarial act even should such act have for object the mortgaging of property existing in the country to which the Consul or Consular Agent belongs.

In such cases the special dispositions in force in that country will be applied.

Such agents will likewise have the right to record in their respective offices all contracts involving personal responsibility between one or more of their countrymen, or between them and other persons within the country in which they reside, as also those which, notwithstanding their being exclusively of interest to the natives of the country in which the stipulations are made, have reference to property situated in, or business transactions to be fulfilled in, some part of the country to which the Consular Agent, recording such acts, belongs.

The testimonies and attestations duly legalized by such Consular Agents and sealed with the official seal of the Consulate, Vice-Consulate, or Consular Agency, will be good in law, both in the Republic of Guatemala and in the Kingdom of Italy, and will have the same force and value as though they had been authorised by notaries or other public functionaries of either country: Provided that such acts are drawn up in the form required by the laws of the State to which the Consuls or Consular Agents belong, and are afterwards registered, stamped, and subjected to all the other formalities in use in the country in which such acts are to take effect.

When the authenticity of a public document registered in the Chancery of one of the respective Consulates is doubted, its comparison with the original cannot be refused to the person asking for it, and the person in question has likewise the right to be present when such comparison takes place, should he desire it.

The respective Consuls-General, Consuls, Vice-Consuls and Consular Agents may translate and legalize all kinds of documents emanating from the authorities or functionaries of their own countries. Such translations and legalization will in their place of residence have the same force and value as though they had been prepared by local interpreters.

Article XIII

In the case of the death of a subject of one of the Contracting Parties in the territory of the other, the Consul-General, Consul, Vice-Consul or Consular Agent in whose district the death may have occurred, must immediately advise the local authorities should he first become aware of the decease.

When a Guatemalan dies in Italy or an Italian in Guatemala without making a will or nominating a trustee under the will, or should the legal or testamentary heirs under the will be infants or be absent, or the trustee under the will not be at hand when the will is to be proved, the Consul-General, Consul, Vice-Consul or Consular Agent belonging to the country of the deceased will have the right to proceed successively in the following matters:

1. To affix his official seal at the request of interested parties to all the movable estate and papers of the deceased, giving notice of such action to the local authority, who may likewise assist and affix his own seals.
2. To make an inventory of all the goods and effects of the deceased,

in the presence of the local authority, should the latter, in consequence of the notice received, deem it advisable to be present.

The local authorities will affix their signatures to any acts drawn up in their presence, without charging any fees whatever for their official action.

3. To dispose by public auction of such movable possessions as are liable to deterioration, and of such as are difficult to keep, and also of such crops and effects for the disposal of which favourable opportunities present themselves.

4. To deposit in a place of security all the effects and valuables comprised in the inventory, to hold such credits as are collected and the product of the income either at the Consular Office, or confide them to a business man of good standing.

Such deposits are to be effected in either case with the concurrence of the local authority who may have intervened in the preceding formalities when, after the citation mentioned in the following paragraph, subjects of that Power or of a third Power, present themselves as interested parties.

5. To publish a notice of the death, and when necessary to cite through the medium of the press of the town or country of the deceased such creditors of the estate as may there exist, in order that these may present, within a fixed period determined by law, their respective documents duly legalized.

When creditors of the estate present themselves, the payment of their credits must be made within a period of fifteen days after the closing of the inventory, should funds exist which can be appropriated for such a purpose, and in the contrary case, as soon as the possessions can be liquidated in the most convenient manner, or finally within a period which may be established by mutual consent of the Consul and the majority of the interested parties.

Should the respective consuls refuse the payment of all or part of the credits, alleging insufficiency of effects to satisfy the claims, the creditors may, should they consider it to their interest, ask the competent authority to declare bankruptcy.

Such a declaration having been obtained by the legal means established in either of the countries, the Consuls and Vice-Consuls must immediately hand over to the judicial authorities or to the Receiver in Bankruptcy, as the case may be, all the documents, effects, and valuables belonging to the estate, and the said Agents will be charged with the representation of the heirs, absent parties, infants and incapacitated persons.

In any case, Consuls-General, Consuls and Vice-Consuls, may hand over the inheritance or the product thereof to the legal heirs or to those empowered by the latter to receive it, after the lapse of a period of six months, counting from the day when the announcement of the death was published in the papers.

6. To administer and to liquidate, personally or through a person nominated under his responsibility, the estate, whether a will exists or not, without the local authorities having the right to intervene in such transaction, unless subjects of the country, or of a third Power desire to enforce their rights against such estate, in which case, should difficulties arise out of any claim in contention between the parties, the Consuls-General, Consuls, and Consular Agents, having no power to decide in such matters, the question must be submitted to the Tribunals of the country which have the right to investigate and give a decision with regard thereto.

The said Consular Agents will likewise act as the representatives of the heirs under the will or in case of intestacy, of the heirs at law, that is to say, that whilst they definitely retain the administration and the right to liquidate the estate, as also to proceed to the sale of the effects in accordance with the rules previously laid down, they will watch the interests of the heirs and have the right to nominate the lawyers charged with the duty of defending such rights before the Tribunals, it being understood that they are to exhibit all the documents needed to clear up any question submitted to the judgment of the Tribunals. Sentence having been pronounced, the Consul-General, Consul, Vice-Consul, or Consular Agent, must act in accordance with it, unless notice of appeal has been given, and they may likewise continue the liquidation which had been suspended pending the settlement of the controversy.

7. To assume, when occasion arises, the responsibility of guardianship, in accordance with the laws of the respective country.

Article XIV

Should a Guatemalan die in Italy or an Italian in Guatemala at a place where no Consular Agent of his nationality resides, the competent local authority will proceed, according to the laws of the country, to take the inventory of the effects, and the liquidation of the property existing, and he will be under the obligation to give within the least possible time an account of the result of his action to the Guatemalan or Italian Embassy or Legation, Consulate, or Vice-Consulate nearest to the place where the estate exists.

The nearest Consular Agent, personally or by means of a representative, will immediately present himself at the place where the estate exists, the intervention of the local authority being limited to the dispositions contained in article XIII of this Convention.

Article XV

The subjects of both Parties will have free access to the Courts of Justice to enforce or defend their rights, without any further conditions, restrictions, or taxes beyond those imposed upon natives.

They will also have equally with the natives the right to freely select their defending Counsel, and to be present at the hearing, trials, and sentences of the Tribunal in cases in which they are interested, as also to be present at the reports, examinations and depositions of witnesses which may take place before the said Courts, provided that the laws of the two countries allow the publicity of such acts.

They will also enjoy gratuitous judicial assistance in the same cases and under the same conditions in which the laws of the country accord such advantage to natives.

In every case the certificate of indigence is to be furnished to the person applying for such assistance by the authorities in the place of his ordinary residence.

Should such person not reside in the country in which he makes the application, the said certificate is to be legalized by the Diplomatic or Consular Agent of the country in which the certificate is to be presented.

Should the applicant reside in the country in which he makes the application, reports may also be asked for from the authorities of the nation to which he belongs.

Article XVI

Indigent subjects of the two countries will be assisted and treated with entire reciprocity in accordance with the laws of the respective States.

Article XVII

Consuls-General, Consuls, Vice-Consuls, and Consular Agents, will take entire charge of inventories and other acts undertaken for the safeguarding of the estates left by seamen and passengers of their country having died on shore or on board of vessels of their country during the passage, or in the port of arrival.

Article XVIII

A Consul-General, Consul, Vice-Consul, or Consular Agent may proceed personally, or send a representative on board the vessels of his country when once pratique has been given, they may question the captain and crew, examine the ship's papers, receive declarations as to the voyage and incidents of the passage, extend manifests, and facilitate the dispatch of the vessels, and finally they may accompany the officers before the Tribunals or to Administrative Offices of the country to act for them as interpreters or agents in the matters they have pending, or in petition to be presented.

Article XIX

In everything concerning the police of the port, the loading and unloading of the vessels, and the safety of the goods, merchandise, or effects, the laws, statutes, and regulations of the country will be observed. Consuls-General, Consuls, Vice-Consuls, and Consular Agents, will be exclusively charged with the maintenance of order on board of merchant-vessels of their country, and they will take cognizance of questions arising between the captain, officers, and crew, particularly with matters relating to pay, and the compliance with agreements reciprocally entered into.

The local authorities cannot intervene, excepting when a disturbance occurring on board of the vessels is of such a nature as to disturb tranquillity and public order on shore and in the port, or when any one belonging to the country or not belonging to the crew is implicated in the disturbance.

In all other cases the local authorities will limit themselves to rendering assistance to the Consuls, Vice-Consuls, and Consular Agents when requested, to arrest any one inscribed in the ship's books, provided always that they deem it advisable.

Article XX

Consuls-General, Consuls, Vice-Consuls, and Consular Agents may cause to be arrested and sent on board seamen and other persons forming part of the crew of merchant-vessels and ships-of-war of their country, who may have deserted to the territory of the other State.

For this purpose they must address themselves in writing to the competent authority and justify their action by the exhibition of the ship's books or list of the crew, or by means of authenticated copies, or extracts of the same, to the effect that the persons claimed really form part of the crew.

In presenting this application, thus justified, the surrender of the deserter cannot be refused. Further, every assistance and help will be given to the said Consular Agents in the pursuit and arrest of deserters.

The High Contracting Parties agree that seamen and other members of the crew, subjects of the country in which the desertion takes place, are exempted from the stipulations of the present Convention.

Article XXI

When no agreement to the contrary exists between the owners, charterers, shippers and assurers, damage suffered during the navigation of the ships of both countries, when they enter the port, either voluntarily or are compelled to do so by *force majeure*, will be estimated by the Consuls-General, Consuls and Vice-Consuls of the respective country, except in cases in which subjects of the country in which the Consular Agent resides, or of a third Power, are interested in the said damage, in which case, and in default of an amicable settlement between all the interested parties, the damage will be estimated by the local authorities.

Article XXII

In the case of a vessel belonging to the Government or a subject of one of the High Contracting Parties suffering wreck or running aground on the coasts of the other, the authorities are to inform the Consul-General, Consul, Vice-Consul, or Consular Agent of the district, or in the absence of such, the Consul-General, Consul, Vice-Consul or Consular Agent nearest to the place where the accident happened.

All operations in regard to the salvage of Guatemalan vessels wrecked or running aground in the territorial waters of Italy will be undertaken by the Guatemalan Consuls-General, Consuls, Vice-Consuls or Consular Agents, and reciprocally all operations in regard to the salvage of Italian vessels suffering wreck or running aground in Guatemalan territorial waters will be undertaken by the Italian Consuls-General, Consuls, Vice-Consuls, or Consular Agents.

The intervention of the local authorities will only occur in both countries in order to assist the Consular Agents and to maintain order, to guarantee the interests of salvors not belonging to the crew, and to insure the compliance with such regulations as are to be observed in the entry and clearance of the merchandise saved.

In the absence of and until the arrival of the Consul-General or Consul, or of the persons delegated by them for the purpose, the local authorities are to take measures for the protection of individuals and the preservation of goods which may have been saved from the wreck.

The intervention of the local authorities on these occasions will not give rise to the levying of dues of any description excepting such as national vessels would bear in similar cases or the expenses incurred in salvage, and for the care of the salvaged goods.

In case of doubts as to the nationality of the wrecked vessel, the operations mentioned in the present article will be exclusively undertaken by the competent local authorities.

The High Contracting Powers further agree that the merchandise and effects saved will not be subject to any payment of customs duties, unless such be sold for consumption in the country.

Article XXIII

It is likewise agreed that the respective Consuls-General, Consuls, Vice-Consuls, and Consular Agents, as also the Chancellors, secretaries, pupils, and student-Consuls, will enjoy in both countries all the exemptions, prerogatives, and privileges actually conceded, or to be conceded, provided that they are reciprocal, and do not arise out of Treaties or Conventions which have been denounced.

Article XXIV

In case of defect or insufficiency in the dispositions of the present Convention, recourse will be had to the general principles of international law and of international use and custom, the strictest reciprocity being observed in all cases.

Article XXV

The present Convention will remain in force for a period of ten years, counting from the date of the exchange of ratifications; but should neither of the Parties have communicated to the other one year before the expiration of that period its intention of terminating the Convention, it will remain in force until one year after the said declaration is made at whatever period the same may take place.

Article XXVI

The stipulations contained in the preceding Articles will come into force in the two States immediately after the exchange of ratifications.

Article XXVII

The present Convention shall be approved by the Legislative Bodies in accordance with the laws of the respective countries, and be ratified by the High Contracting Parties, and the ratifications exchanged at Guatemala within a period of eighteen months, or previously if possible.

5. Convention¹ de commerce et de navigation entre l'Égypte et l'Italie, signée à Alexandrie, le 14 juillet 1906²

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Article 14

Sont exemptés de toute vérification dans les douanes égyptiennes, aussi bien que du paiement des droits à l'entrée et à la sortie, les objets d'usage et effets personnels appartenant aux titulaires ou gérants de l'Agence Diplomatique d'Italie ou d'un consulat ou d'un vice-consulat, lorsqu'ils sont de carrière (missi) et qu'ils n'exercent aucune autre profession, ne s'occupent ni de commerce ni d'industrie et ne possèdent ni n'exploitent de biens-fonds en Egypte.

¹ De Martens, *Nouveau Recueil Général de Traités*, 3^e série, t. III, p. 874.

² Les ratifications ont été échangées au Caire, le 16 février 1909.