

**SECOND PART**  
**DEUXIEME PARTIE**  
**TREATIES AND INTERNATIONAL AGREEMENTS**  
**TRAITES ET ACCORDS INTERNATIONAUX**



## I. MULTIPARTITE TREATIES

### I. TRAITÉS MULTILATÉRAUX

#### 1. Accord <sup>1</sup> entre la Bolivie, la Colombie, l'Equateur, le Pérou et le Venezuela relatif aux attributions des consuls respectifs dans chacune des Républiques contractantes, signé à Caracas, le 18 juillet 1911 <sup>2</sup>

ART. I. Chacune des Républiques contractantes pourra entretenir des consuls dans les villes et places commerciales des autres et dans les ports qui y sont ouverts au commerce étranger. Ce service consulaire sera assuré par des consuls généraux, des consuls, des vice-consuls ou des agents consulaires. Chaque République pourra excepter les villes, places et ports où elle ne jugera pas nécessaire la résidence de ces fonctionnaires, mais cette exception sera commune à toutes les nations qui en seront préalablement prévenues.

II. Pour l'exercice de leurs fonctions les consuls obtiendront l'exequatur du Gouvernement du pays où ils résideront et le présenteront aux autorités, afin qu'elles leur assurent les exemptions et prérogatives auxquelles de ce fait ils auront droit.

III. Les États contractants ne reconnaissent aux consuls aucun caractère diplomatique ni ne permettent que ces fonctionnaires exercent des fonctions diplomatiques conjointement avec leurs fonctions consulaires, et ce, pour des pays dont la législation le permet, mais ils leur octroient les prérogatives suivantes:

1. Les archives, armoiries et drapeaux des consulats seront inviolables. Les armoiries et le drapeau ne rendent pas inviolable le domicile du consul quand l'autorité se verra, conformément à la loi, dans l'obligation de l'abattre.

2. Les consuls, en tout ce qui concerne l'exercice de leurs fonctions, seront complètement indépendants de l'État sur le territoire duquel ils résideront.

3. Les consuls seront exempts de tout service personnel ou de contribution extraordinaire dans le pays où ils résideront. Cette exemption ne sera pas étendue aux consuls nationaux du pays où ils exerceront leurs fonctions.

IV. Les consuls seront soumis aux lois et autorités du pays sur tous les points pour lesquels ce présent accord ou les traités antérieurement publiés n'auront pas stipulé d'exemptions spéciales.

V. Les consuls pourront avoir les droits suivants:

1. S'adresser aux autorités du district de leur résidence et, le cas échéant, avoir recours au Gouvernement général, par l'intermédiaire de l'agent diplomatique de leur nation, s'il en existe un, ou directement, dans le cas

<sup>1</sup> *British and Foreign State Papers*, 1914, Part I, Vol. CVII, p. 601.

<sup>2</sup> Ratifié par tous les États signataires.

où cela sera nécessaire, pour réclamer contre les infractions que commettent les autorités du pays aux traités de commerce, au préjudice de la nation dont ils sont consuls. Ils procéderont de même pour tout abus commis par les autorités contre les individus des pays dont ils gardent les intérêts; ils agiront de façon à ce que justice leur soit rendue sans retard, à ce qu'ils soient jugés et condamnés par les tribunaux compétents conformément aux lois du pays.

2. Se présenter au lieu et place de leurs compatriotes quand ceux-ci le leur demanderont devant les autorités du pays dans les affaires et questions qui leur seront indiquées.

3. Accompagner les capitaines, contremaîtres et patrons des navires de leur nation dans les démarches que ces derniers auront à faire pour l'enregistrement de leurs marchandises et de leurs navires, et devant les tribunaux et autorités pour y faire les déclarations qu'eux-mêmes ou quelqu'un de leur équipage aura à faire.

4. Recevoir les déclarations, protestations et rapports des capitaines, contremaîtres et patrons des navires de leur nation en raison des avaries causées en pleine mer et les protestations que leurs nationaux peuvent avoir à formuler aux sujets de questions commerciales. Ces documents, sous forme de copie authentiquée expédiée par le consul, seront admis devant les tribunaux et auront la même valeur que s'ils avaient été délivrés par le greffe de ces tribunaux.

5. Régler tout ce qui est relatif aux avaries qu'auront souffertes en pleine mer les effets et marchandises de commerce embarqués dans les navires de leur nation, qui arriveront au port où ils résident, toutefois qu'il n'y aura pas de stipulation à ce contraire entre les armateurs, les chargeurs et les assureurs. Mais si dans cette question d'avaries sont intéressés des habitants du pays où résident le consul et qui ne soient pas de la même nation, la connaissance des faits revient aux autorités locales, qui décideront sur ces avaries.

6. Régler à l'amiable et sans concours judiciaire les différends qui surgissent entre leurs compatriotes au sujet de questions commerciales, toutefois que les parties se soumettront volontairement et par écrit à son arbitrage, et dans ce cas, le document renfermant la décision du consul aura la force d'un document public délivré avec toutes les garanties nécessaires pour que l'exécution en soit rendue obligatoire aux parties intéressées.

7. Faire en sorte que l'ordre dû soit observé à bord des bateaux marchands du pays, et décider dans les différends qui peuvent surgir entre le capitaine, les officiers et les hommes d'équipage, excepté quand les désordres qui surviennent à bord peuvent troubler la tranquillité publique ou quand à ces différends se trouveront mêlés des individus qui ne seront pas de la nation du navire; dans ce cas les autorités locales devront intervenir.

8. Diriger toutes les opérations relatives au sauvetage des navires de leur pays, quand ils feront naufrage sur les côtes du pays où ils résident. Dans ce cas, les autorités locales interviendront seulement pour maintenir l'ordre, donner la sécurité aux intérêts sauvés et faire en sorte que les dispositions soient prises pour rendre effective cette sécurité. En absence du consul et jusqu'à son arrivée, les autorités devront également prendre toutes les mesures nécessaires pour la conservation des intérêts naufragés.

9. Prendre possession, dresser inventaire, nommer des experts pour faire les évaluations et procéder à la vente des biens meubles des individus décédés *ab intestat* et sans héritiers dans le pays de leur résidence. Le consul procédera à ces formalités, assisté de deux commerçants désignés par lui et pour l'exécution de ces formalités, et la remise des biens et du produit qui en sera tiré, il observera les lois correspondantes et les instructions qu'il aura reçues de son gouvernement. Quand le consul ne se trouvera pas dans le lieu où sera décédé l'individu, les autorités locales prendront les mesures de leur ressort pour mettre en sûreté les biens de ce dernier.

10. Demander aux autorités locales l'arrestation des marins qui désertent des navires de leur nation; ils présenteront, s'il le faut, le livre de bord, le rôle de l'équipage ou un autre document officiel qui justifie leur demande. Les autorités dicteront les mesures de leur compétence pour la poursuite, appréhension et arrestation de ces déserteurs et les mettront à la disposition du consul; mais si le navire auquel il appartient est parti et qu'il ne se présente pas d'occasion de le faire partir, le déserteur sera détenu pendant trois mois aux frais du consul. Une fois ce délai passé, les déserteurs non livrés seront mis en liberté par les autorités compétentes et ne pourront plus être arrêtés pour les mêmes motifs.

VI. Les consuls de chaque République contractante, résidant dans l'une d'elles, pourront faire usage de leurs attributions en faveur des individus des autres Républiques contractantes qui n'auront pas de consul dans l'endroit.

## **2. Convention <sup>1</sup> regarding diplomatic officers, adopted by the Sixth International American Conference, signed at Habana, 20 February 1928 <sup>2</sup>**

### *General Provision*

*Article 1.* States have the right of being represented before each other through diplomatic officers.

### SECTION I

### *Chiefs of Mission*

*Article 2.* Diplomatic officers are classed as ordinary and extraordinary.

Those who permanently represent the Government of one State before that of another are ordinary.

Those entrusted with a special mission or those who are accredited to represent the Government in international conferences and congresses or other international bodies are extraordinary.

<sup>1</sup> League of Nations, *Treaty Series*, vol. CLV, p. 261.

<sup>2</sup> Ratifications (up to September 1956): Brazil, Colombia, Costa Rica, Cuba, Chile\*, Ecuador, Haiti, Mexico, Nicaragua, Panama, Peru, Dominican Republic\*\*, Uruguay, Venezuela.

\* With the following reservation: "With the reservation that the Exemption as provided under article 18 (3) shall be subject to the provisions of Chilean law which govern the subject."

\*\* With the following reservation: "The scope of article 18 (3), in so far as it applies to exemptions from Customs duties on articles intended for the personal use of the diplomatic officer or of his family, shall be deemed to be limited by the relevant provisions of the Customs laws of the Republic."

*Article 3.* Except as concerns precedence and etiquette, diplomatic officers, whatever their category, have the same rights, prerogatives and immunities.

Etiquette depends upon diplomatic usages in general as well as upon the laws and regulations of the country to which the officers are accredited.

*Article 4.* In addition to the functions indicated in their credentials, ordinary officers possess the attributes which the laws and decrees of the respective countries may confer upon them. They should exercise their attributes without coming into conflict with the laws of the country to which they are accredited.

*Article 5.* Every State may entrust its representation before one or more Governments to a single diplomatic officer.

Several States may entrust their representation before another to a single diplomatic officer.

*Article 6.* Diplomatic officers, duly authorized by their Governments, may with the consent of the local Government, and upon the request of a State not represented by an ordinary officer before the latter Government, undertake the temporary or accidental protection of the interests of the said State.

*Article 7.* States are free in the selection of their diplomatic officers; but they may not invest with such functions the nationals of a State in which the mission must function without its consent.

*Article 8.* No State may accredit its diplomatic officers to other States without previous agreement with the latter.

States may decline to receive an officer from another or, having already accepted him, may request his recall, without being obliged to state the reasons for such a decision.

*Article 9.* Extraordinary diplomatic officers enjoy the same prerogatives and immunities as ordinary ones.

## SECTION II

### *Personnel of Missions*

*Article 10.* Each mission shall have the personnel determined by its Government.

*Article 11.* When diplomatic officers are absent from the place where they exercise their functions or find it impossible to discharge them, they shall be substituted for temporarily by persons designated for that purpose by their Government.

## SECTION III

### *Duties of Diplomatic Officers*

*Article 12.* Foreign diplomatic officers may not participate in the domestic or foreign politics of the State in which they exercise their functions.

*Article 13.* Diplomatic officers shall, in their official communications, address themselves to the Minister of Foreign Relations or Secretary of State of the country to which they are accredited. Communications to other authorities shall also be made through the said Minister or Secretary.

## SECTION IV

*Immunities and Prerogatives of Diplomatic Officers*

*Article 14.* Diplomatic officers shall be inviolate as to their persons, their residence, private or official, and their property. This inviolability covers:

- (a) All classes of diplomatic officers;
- (b) The entire official personnel of the diplomatic mission;
- (c) The members of the respective families living under the same roof;
- (d) The papers, archives and correspondence of the mission.

*Article 15.* States should extend to diplomatic officers every facility for the exercise of their functions and especially to the end that they may freely communicate with their Governments.

*Article 16.* No judicial or administrative functionary or official of the State to which the diplomatic officer is accredited may enter the domicile of the latter, or of the mission, without his consent.

*Article 17.* Diplomatic officers are obliged to deliver to the competent local authority that requests it any person accused or condemned for ordinary crimes who may have taken refuge in the mission.

*Article 18.* Diplomatic officers shall be exempt in the State to which they are accredited:

- (1) From all personal taxes, either national or local;
- (2) From all land taxes on the building of the mission, when it belongs to the respective Government;
- (3) From Customs duties on articles intended for the official use of the mission or for the personal use of the diplomatic officer or of his family.

*Article 19.* Diplomatic officers are exempt from all civil or criminal jurisdiction of the State to which they are accredited; they may not, except in the case when duly authorized by their Government, waive immunity, be prosecuted or tried unless it be by the courts of their own country.

*Article 20.* The immunity from jurisdiction survives the tenure of office of diplomatic officers in so far as regards actions pertaining thereto; it may not, however, be invoked in respect to other actions, except while discharging their diplomatic functions.

*Article 21.* Persons enjoying immunity from jurisdiction may refuse to appear as witnesses before the territorial courts.

*Article 22.* Diplomatic officers enter upon the enjoyment of their immunity from the moment they pass the frontier of the State where they are going to serve and make known their position.

The immunities shall continue during the period that the mission may be suspended, and, even after it shall be terminated, for the time necessary for the officer to be able to withdraw with the mission.

*Article 23.* Persons belonging to the mission shall also enjoy the same immunities and prerogatives in the States which they cross to arrive at their post or to return to their own country, or in a State where they may casually be during the exercise of their functions and to whose Government they have made known their position.

*Article 24.* In case of death of the diplomatic officer, his family shall continue to enjoy the immunities for a reasonable term, until they may leave the State.

## SECTION V

*Termination of the Diplomatic Mission*

*Article 25.* The mission of the diplomatic officer ends:

- (1) By the official notification of the officer's Government to the other Government that the officer has terminated his functions;
- (2) By the expiration of the period fixed for the completion of the mission;
- (3) By the solution of the matter, if the mission had been created for a particular question;
- (4) By the delivery of passports to the officer by the Government to which he is accredited;
- (5) By the request for his passports made by the diplomatic officer to the Government to which he is accredited.

In the above-mentioned cases, a reasonable period shall be given the diplomatic officer, the official personnel of the mission, and their respective families, to quit the territory of the State; and it shall be the duty of the Government to which the officer was accredited to see that during this time none of them is molested nor injured in his person or property.

Neither the death or resignation of the head of the State nor the change of Government or political regime of either of the two countries shall terminate the mission of the diplomatic officers.

*Article 26.* The present Convention does not affect obligations previously undertaken by the Contracting Parties through international agreements.

### 3. Convention<sup>1</sup> regarding consular agents, adopted by the Sixth International American Conference, signed at Habana, 20 February 1928<sup>2</sup>

## SECTION I

*Appointments and Functions*

*Article 1.* States may appoint in the territory of others, with the express or tacit consent of the latter, consuls who shall there represent and defend their commercial and industrial interests and render to their nationals such assistance and protection as they may need.

<sup>1</sup> League of Nations, *Treaty Series*, vol. CLV, p. 291.

<sup>2</sup> Ratifications (up to September 1956): Brazil, Colombia, Cuba, Ecuador, Haiti, Mexico, Nicaragua, Panama, Peru, Dominican Republic\*, United States, Uruguay.

\* With the following reservations: "... The National Congress... refuses to approve articles 12, 15, 16, 18, 20 and 21; and makes clear that in article 14 the word *delito* (crime) shall be interpreted in a broad and inclusive sense, as for example *delitos, crímenes y contravenciones* (crimes, misdemeanors, and violations of Law); and in article 17 the phrase *materia criminal* includes all penal matters". The United States refused to accept these reservations, and the Convention is not considered in force between the United States and the Dominican Republic.

NOTE. In signing the Convention, Venezuela made the following reservation:

"On behalf of the Government that I represent, I make a reservation with respect to the coincidence of diplomatic and consular functions in the same person, because it is totally opposed to our tradition, maintained since it was established until the present time, in a way that admits of no change."



*Article 2.* The form and requirements for appointment, the classes and the rank of the consuls, shall be regulated by the domestic laws of the respective State.

*Article 3.* Unless consented to by the State where he is to serve, one of its nationals may not act as consul. The granting of an exequatur implies such consent.

*Article 4.* The consul having been appointed, the State shall forward through diplomatic channels to the other State the respective commission, which shall contain the name, category and authority of the appointee.

As to a vice-consul or commercial agent appointed by the respective consul, where there is authorization by law, the commission shall be issued and communicated to the latter.

*Article 5.* States may refuse to accept consuls appointed in their territory or subject the exercise of consular functions to certain special obligations.

*Article 6.* The consul can be recognized as such only after having presented his commission and obtained the exequatur of the State in whose territory he is to serve. Provisional recognition can be granted upon the request of the legation of the consul pending the delivery in due form of the exequatur.

Officials appointed under the terms of Article 4 are likewise subject to this formality and in such case it rests with the respective consul to request the exequatur.

*Article 7.* The exequatur having been obtained, it shall be presented to the authorities of the consular district, who shall protect the consul in the exercise of his functions and guarantee to him the immunities to which he is entitled.

*Article 8.* The territorial Government may at any time withdraw the consul's exequatur, but, except in urgent cases, it shall not have recourse to this measure without previously attempting to obtain from the consul's Government his recall.

*Article 9.* In case of the death, disability or absence of consular agents, any of the assistant employees whose official position has been previously made known to the Ministry of Foreign Affairs or the Department of State may temporarily assume the consular functions; while thus engaged he shall enjoy all the rights and prerogatives corresponding to the permanent official.

*Article 10.* Consuls shall exercise the functions that the law of their State confers upon them, without prejudice to the legislation of the country where they are serving.

*Article 11.* In the exercise of their functions, consuls shall deal directly with the authorities of their district. Should their representations not be heeded, they may then pursue them before the Government of the State through the intermediary of their diplomatic representative, but should not communicate directly with the Government except in the absence or non-existence of a diplomatic representative.

*Article 12.* In case of the absence of a diplomatic representative of the consul's State, the consul may undertake such diplomatic actions as the Government of the State in which he functions may permit in such cases.

*Article 13.* A person duly accredited for the purpose may combine diplomatic representation and the consular function, provided the State before which he is accredited consents to it.

## SECTION II

*Prerogatives of Consuls*

*Article 14.* In the absence of a special agreement between two nations, the consular agents who are nationals of the State appointing them shall neither be arrested nor prosecuted except in the cases when they are accused of committing an act classed as a crime by local legislation.

*Article 15.* In criminal cases, the prosecution or the defense may request attendance of consular agents at the trial as witnesses. This request must be made with all possible consideration to consular dignity and to the duties of the consular office and shall be complied with by the consular official.

Consular agents shall be subject to the jurisdiction of the courts in civil cases, although with the limitation that when the consul is a national of his State and is not engaged in any private business with purposes of gain, his testimony shall be taken either verbally or in writing, at his residence or office, with all the consideration to which he is entitled.

The consul may, nevertheless, of his own free will appear as a witness when such appearance does not seriously hinder the discharge of his official duties.

*Article 16.* Consuls are not subject to local jurisdiction for acts done in their official character and within the scope of their authority. In case a private individual deems himself injured by the consul's action, he must submit his complaint to the Government, which, if it considers the claim to be relevant, shall make it valid through diplomatic channels.

*Article 17.* In respect to unofficial acts, consuls are subject, in civil as well as in criminal matters, to the jurisdiction of the State where they exercise their functions.

*Article 18.* The official residence of the consuls and places used for the consulate's offices and archives are inviolable and in no case may the local authorities enter them without the permission of the consular agents; neither shall they examine nor seize, under any pretext whatsoever, documents or other objects found in a consular office. No consular officer shall be required to present his official files before the courts or to make declaration with respect to their contents.

When consular agents are engaged in business within the territory of the State where they are exercising their duties, the files and documents of the consulate shall be kept in a place entirely separate from the one where private or business papers are kept.

*Article 19.* Consuls are obliged to deliver, upon the simple request of the local authorities, persons accused or condemned for crimes who may have sought refuge in the consulate.

*Article 20.* Consular agents, as well as the employees of the consulate who are nationals of the State appointing them, not engaged in business with purposes of gain, in the State where they perform their functions, shall be exempt from all national, State, provincial or municipal taxes levied upon their person or property, except such taxes as may apply to the possession or ownership of real estate located in the State where discharging their duties or to the proceeds of the same. Consular agents and employees who are nationals of the State they represent are exempt from taxes on the salaries, honorariums or wages which they receive in return for their consular services.

*Article 21.* The employee who substitutes for the consular agent in his absence, or for another cause, shall enjoy during his temporary term of office the same immunities and prerogatives as the latter.

*Article 22.* Consuls engaged in business or exercising other functions apart from those pertaining to the consular duties are subject to local jurisdiction in all their activities not pertaining to the consular service.

## SECTION III

*Suspension and Termination of Consular Functions*

*Article 23.* Consular agents suspend their functions because of illness or leave of absence, and terminate their office:

- (a) By death;
- (b) By retirement, resignation or dismissal; and
- (c) By the cancellation of the exequatur.

*Article 24.* The present Convention does not affect obligations previously undertaken by the Contracting Parties through international agreements.

**4. Code<sup>1</sup> of Private International Law (Bustamante Code), signed at the Sixth International Conference of American States held at Havana, on 20 February 1928<sup>2</sup>**

## BOOK III INTERNATIONAL PENAL LAW

## CHAPTER I

*Penal Laws*

*Article 297.* The head of each of the contracting States is exempt from the penal laws of the others when he is in the territory of the latter.

*Article 298.* The diplomatic representatives of the contracting States in each of the others, together with their foreign personnel, and the members of the families of the former who are living in his company enjoy the same exemption.

## TITLE II

## Competence

## CHAPTER II

*Exceptions to the General Rules of Competence in respect to Civil and Commercial Matters*

*Article 333.* The judges and courts of each contracting State shall be incompetent to take cognizance of civil or commercial cases to which the

<sup>1</sup> League of Nations, *Treaty Series*, vol. LXXXVI, p. 254.

<sup>2</sup> Ratifications (up to 1 September 1956): Bolivia, Brazil, Costa Rica, Cuba, Chile, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Panama, Peru, Dominican Republic, Venezuela.

other contracting States or their heads are defendant parties, if the action is a personal one, except in case of express submission or of counter-claims.

*Article 334.* In the same case and with the same exception, they shall be incompetent when real actions are exercised, if the contracting State or its head has acted on the case as such and in its public character, when the provisions of the last paragraph of Article 318 shall be applied.

*Article 335.* If the foreign contracting State or its head has acted as an individual or private person, the judges or courts shall be competent to take cognizance of the cases where real or mixed actions are brought, if such competence belongs to them in respect to foreign individuals in conformity with this Code.

*Article 336.* The rule of the preceding article shall be applicable to universal causes (*juicios universales*, e.g. distribution of a bankrupt's or decedent's effects), whatever the character in which the contracting foreign State or its head intervenes in them.

*Article 337.* The provisions established in preceding articles shall be applied to foreign diplomatic agents and to the commanders of war vessels or aircraft.

*Article 338.* Foreign consuls shall not be exempt from the civil jurisdiction of the judges and courts of the country in which they act, except in respect to their official acts.

*Article 339.* In no case can judges or courts adopt coercive or other measures which have to be executed within the legations or consulates or their archives, nor in respect to diplomatic or consular correspondence, without the consent of the respective diplomatic or consular agents.

## **5. Convention<sup>1</sup> between Denmark, Finland, Iceland, Norway and Sweden concerning social security, signed on 15 September 1955<sup>2</sup>**

### *Chapter III. General Provisions*

*Article 26.* Accredited officials of diplomatic or consular missions are subject to the laws of the country to which the mission belongs. The same shall apply to other personnel of the mission and to persons in the personal service of members of the mission provided they are nationals of the country to which the mission belongs.

Such persons may, however, request the supreme administrative authority of the country in which they are employed to apply the laws of that country in respect of one or more of the benefits referred to in this Convention, in which case the applicants' wishes shall be accorded the fullest possible consideration.

The provisions of this article shall not apply to honorary consuls or to persons employed by them.

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<sup>1</sup> Registered with the United Nations on 24 November 1956.

<sup>2</sup> Ratifications exchanged on 30 August 1956.