

## II. BIPARTITE TREATIES

### II. TRAITÉS BILATÉRAUX

#### 1. Convention <sup>1</sup> entre la Prusse et les Pays-Bas, relative à l'admission des agents consulaires de la Prusse dans les principaux ports des colonies néerlandaises, signée à La Haye, le 16 juin 1856 <sup>2 3</sup>

*Article 1<sup>er</sup>.* Des consuls généraux, consuls, vice-consuls et agents consulaires prussiens seront admis dans tous les ports des possessions d'outre-mer ou colonies des Pays-Bas, qui sont ouverts aux navires de toutes nations.

*Article 2.* Les consuls généraux, consuls, vice-consuls et agents consulaires prussiens sont considérés comme des agents commerciaux, protecteurs du commerce maritime de leurs nationaux dans les ports de la circonscription de leur arrondissement consulaire.

Ils sont sujets aux lois tant civiles que criminelles du pays où ils résident, sauf les exceptions que la présente convention établit en leur faveur.

*Article 3.* Les consuls généraux, consuls et vice-consuls prussiens, avant d'être admis à l'exercice de leurs fonctions et de jouir des immunités qui y sont attachées, doivent produire une commission en due forme au gouvernement de S. M. le Roi des Pays-Bas.

Après avoir obtenu l'exequatur, qui sera aussi promptement que possible contresigné par le gouverneur de la colonie, les dits fonctionnaires consulaires de tous grades auront droit à la protection du gouvernement et à l'assistance des autorités locales pour le libre exercice de leurs fonctions.

Le gouvernement, en accordant l'exequatur, se réserve la faculté de le retirer ou faire retirer par le gouverneur de la colonie, en indiquant les motifs de cette mesure.

*Article 4.* Les consuls généraux, consuls et vice-consuls sont autorisés à placer au-dessus de la porte extérieure de leur maison un tableau aux armes de leur gouvernement, avec l'inscription: « Consulat » ou « Vice-consulat de Prusse ». Il est bien entendu que cette marque extérieure ne pourra jamais être considérée comme donnant droit d'asile, ni comme pouvant soustraire la maison et ceux qui l'habitent aux poursuites de la justice territoriale.

*Article 5.* Il est néanmoins entendu que les archives et documents relatifs aux affaires consulaires seront protégés contre toute recherche, et qu'aucune autorité ni aucun magistrat ne pourra d'une manière quelconque et sous aucun prétexte les visiter, les saisir ou s'en enquérir.

*Article 6.* Les consuls généraux, consuls, vice-consuls et agents consulaires ne sont investis d'aucun caractère diplomatique.

Toute demande à adresser au Gouvernement néerlandais devra avoir lieu par l'entremise de l'agent diplomatique résidant à La Haye. A défaut

<sup>1</sup> De Martens, *Nouveau Recueil général de Traités*, t. XVII, partie I, p. 186.

<sup>2</sup> Ratifié.

<sup>3</sup> Voir la Déclaration signée à La Haye, le 11 janvier 1872, entre l'Allemagne et les Pays-Bas, relative à l'application de ladite Convention consulaire aux agents consulaires de l'Empire allemand (*ibid.*, t. XIX, p. 43).

d'un tel agent, et en cas d'urgence, le consul général, consul ou vice-consul peut faire lui-même la demande au gouverneur de la colonie, en prouvant l'urgence et en exposant les motifs pour lesquels la demande ne pourrait être adressée aux autorités subalternes, ou en démontrant que les demandes, antérieurement adressées à ces autorités, seraient restées sans effet.

*Article 7.* Les consuls généraux et les consuls ont la faculté de nommer des agents consulaires dans les ports mentionnés à l'article 1<sup>er</sup>.

Les agents consulaires pourront être indistinctement des sujets néerlandais, prussiens, ou des nationaux de tout autre pays, résidant ou pouvant, aux termes des lois locales, être admis à fixer leur résidence dans le port où l'agent consulaire sera nommé.

Ces agents consulaires, dont la nomination sera soumise à l'approbation du gouverneur de la colonie, seront munis d'un brevet délivré par le consul sous les ordres duquel ils exerceront leurs fonctions.

Le gouverneur de la colonie peut en tout cas retirer aux agents consulaires, en communiquant au consul général ou consul les motifs d'une telle mesure, l'approbation dont il vient d'être parlé.

*Article 8.* Les passeports délivrés ou visés par les fonctionnaires consulaires de tout grade ne dispensent nullement de se munir de tous les actes requis par les lois locales pour voyager ou s'établir dans les colonies.

Au gouverneur de la colonie est réservé le droit de défendre le séjour dans la colonie ou d'ordonner la sortie de l'individu auquel serait délivré un passeport.

*Article 9.* Lorsqu'un navire prussien viendra à échouer sur les côtes d'une des colonies néerlandaises, le consul général, consul, vice-consul ou agent consulaire, présent sur le lieu même du naufrage ou du sauvetage, prendra, en l'absence ou du consentement du capitaine, toutes les mesures nécessaires et propres à sauver le navire, la cargaison et tout ce qui y appartient.

En l'absence du consul général, consul, vice-consul ou agent consulaire, les autorités néerlandaises du lieu où le navire aura échoué prendront les mesures prescrites par les lois de la colonie.

*Article 10.* Les consuls généraux, consuls, vice-consuls et agents consulaires peuvent, pour autant que l'extradition de déserteurs des navires prussiens, marchands ou de guerre, a été stipulée par traité, requérir l'assistance des autorités locales pour l'arrestation, la détention et l'emprisonnement des déserteurs de ces navires; ils s'adresseront à cet effet aux fonctionnaires compétents, et réclameront les dits déserteurs par écrit, en prouvant par les registres du navire, les rôles d'équipage, ou par tout autre document authentique, que les individus réclamés faisaient partie des équipages.

La réclamation étant appuyée de cette manière, l'extradition sera accordée, à moins que l'individu dont il s'agit ne soit sujet de la nation à laquelle on le réclame.

Les autorités locales seront tenues à exercer toute l'autorité qu'elles possèdent afin que l'arrestation des déserteurs ait lieu. Ces déserteurs arrêtés seront mis à la disposition des dits fonctionnaires consulaires et pourront être écroués dans les prisons publiques à la réquisition et aux frais de ceux qui les réclament, afin d'être dirigés sur les navires auxquels ils appartiennent ou sur d'autres navires de la même nation. Mais s'ils ne sont pas renvoyés dans les trois mois à partir du jour de leur arrestation, ils seront mis en liberté et ne pourront plus être arrêtés pour la même cause.

Il est entendu, toutefois, que si le déserteur se trouvait avoir commis quelque crime, délit ou contravention, il pourra être sursis à son extradition, jusqu'à ce que le tribunal saisi de l'affaire ait rendu sa sentence et que celle-ci ait reçu son exécution.

*Article 11.* Lorsqu'un sujet prussien vient à décéder sans laisser d'héritiers connus ou d'exécuteurs testamentaires, les autorités néerlandaises chargées, selon les lois de la colonie, de l'administration de la succession, en donneront avis aux fonctionnaires consulaires, afin de transmettre aux intéressés les informations nécessaires.

*Article 12.* Les consuls généraux, consuls, vice-consuls et agents consulaires ont, en cette qualité, pour autant que la législation prussienne le permet, le droit d'être nommés arbitres dans les différends qui pourront s'élever entre les capitaines et les équipages des navires prussiens, et ce sans l'intervention des autorités locales, à moins que la conduite des équipages ou du capitaine n'ait été de nature à troubler l'ordre et la tranquillité du pays, ou que les consuls généraux, consuls, vice-consuls et agents consulaires ne requièrent l'assistance des dites autorités pour mettre leurs décisions à exécution ou en maintenir l'autorité.

Il est toutefois entendu que ce jugement ou arbitrage spécial ne privera pas les parties en litige du droit d'en appeler, à leur retour, aux autorités judiciaires de leur propre pays, quand la législation de ce dernier leur reconnaît ce droit.

*Article 13.* Les consuls généraux, consuls, vice-consuls et agents consulaires, qui ne sont point sujets des Pays-Bas, qui au moment de leur nomination ne sont point établis comme habitants dans le Royaume des Pays-Bas ou ses colonies, et qui n'exercent aucune fonction, profession ou commerce, outre leurs fonctions consulaires, sont, pour autant qu'en Prusse les mêmes faveurs seraient accordées aux consuls généraux, consuls et vice-consuls des Pays-Bas, exempts du logement militaire, de l'impôt personnel, et de plus de toutes les impositions publiques ou municipales qui seraient considérées être d'une nature personnelle. Cette exemption ne peut jamais s'étendre aux droits de douane ou autres impôts indirects ou réels.

Les consuls généraux, consuls, vice-consuls et agents consulaires qui ne sont point indigènes ou sujets reconnus des Pays-Bas, mais qui exerceraient, conjointement avec leurs fonctions consulaires, une profession ou un commerce quelconque, sont tenus de supporter et de payer, comme les sujets néerlandais et autres habitants, les charges, impositions et contributions.

Les consuls généraux, consuls, vice-consuls et agents consulaires, sujets des Pays-Bas, mais auxquels il a été accordé d'exercer des fonctions consulaires conférées par le Gouvernement prussien, sont obligés d'acquitter toutes les impositions ou contributions de quelque nature qu'elles puissent être.

*Article 14.* Les consuls généraux, consuls, vice-consuls et agents consulaires prussiens jouiront de tous les autres privilèges, exemptions et immunités dans les colonies néerlandaises, qui pourraient par la suite être accordés aux agents de même rang de la nation la plus favorisée.

## 2. Convention<sup>1</sup> of Friendship and Consular Relations between Denmark and Paragnay, signed at Paris, 18 July 1903<sup>2</sup>

IV. Diplomatic intervention with respect to contentious questions with Paraguayans in Denmark and Danes in Paraguay shall not be permitted except in the event of the Courts of Justice or Tribunals refusing to administer justice in conformity with the laws, or in the event of a delay, amounting to a violation of the same, in the decision and determination of the sentence, the sole and unique object of such intervention being for the fulfilment of the laws.

V. The High Contracting Parties shall have the right to appoint Consuls-General, Consuls, and Vice-Consuls to reside in the towns, ports, or other places within the territory of the other, reserving to themselves reciprocally the right to except any place which they may consider advisable; it being understood that this reservation will not be carried into effect with respect to one or other of the Contracting States if it should not be equally applied to other nations.

VI. Consuls-General, Consuls and Vice-Consuls to be admitted and recognized as such must present their Commission and apply for the corresponding exequatur.

VII. In the event of the absence of the Consul-General, Consul, or Vice-Consul, or for other valid reasons, the Diplomatic Agents, or, in their absence, the Consuls-General or Consuls, may appoint Vice-Consuls and Provisional Consular Agents, making application to the Government in whose territory they reside for the recognition of such Agents.

VIII. Both Governments reserve to themselves the right of refusing the exequatur should the nominee not be *persona grata*. Should the exequatur have already been granted and the Consul appointed have ceased to be *persona grata*, or should other causes of unsuitability present themselves, the Government to which he is accredited may solicit of the Government by which he was appointed his withdrawal or transfer.

IX. The appointment of Consuls-General, Consuls, and Vice-Consuls may be conferred not only on citizens or subjects of the country to which they owe allegiance, but on citizens of the country in which they reside, and on other foreigners.

X. Consuls-General, Consuls, and Vice-Consuls may engage in business or follow any profession.

XI. Consuls-General, Consuls, and Vice-Consuls have no diplomatic character, and consequently do not enjoy the privileges and immunities accorded to Diplomatic Agents, or rights, prerogatives, or exemptions other than those accorded by the present Convention and those which are customary in either State.

XII. Consuls-General, Consuls, and Vice-Consuls are entirely independent of the local authorities in all that relates to the execution of their functions. As regards their person and property, in all that does not relate to the said official functions, they shall be subject to the laws of the country in which they reside, in the same manner as are other private individuals.

<sup>1</sup> *British and Foreign State Papers: 1902-1903*, vol. XCVI, p. 573.

<sup>2</sup> Ratifications exchanged at Paris, 30 September, 1904.

XIII. Consuls-General, Consuls, and Vice-Consuls, when citizens or subjects of the State appointing them, are not liable to any public charge or service, and shall be exempt from direct personal contributions and all other extraordinary taxation; in the event of their possessing real property or exercising any profession, they shall be, nevertheless, bound to pay such direct taxes as may be leviable on such property. If, however, the above-named Agents are citizens or subjects of the country in which they reside, they will be considered in regard to taxation in general on the same footing as the citizens or subjects of the State to which they belong.

XIV. The Consular archives are at all times inviolable, and the local authorities cannot, under any pretext whatever, examine or take possession of documents belonging to the said archives. Consuls-General, Consuls, and Vice-Consuls must keep documents belonging to the Consular archives entirely separate from those having reference to their business or private affairs.

XV. Consuls-General, Consuls, and Vice-Consuls may place on the front door of the Consulate or Vice-Consulate the shield of the nation of which they are Agents, with the following inscription: "Consulate of . . ." On the days of public solemnities, and on other occasions when it is the custom, they may display from the Consular residence the flag of the nation which they serve, and they may also fly the flag on boats conveying them within the port in the exercise of their official duties.

XVI. Consuls-General, Consuls and Vice-Consuls, in cases for which they have the necessary authority as far as is permitted by the laws of the country, have the right to receive in their office or private residence, or on board the vessels of their nation, such declarations as may be made by captains, crews, passengers, merchants, and any other citizen or subject of the nation of which they are Agents.

XVII. Consuls-General, Consuls, and Vice-Consuls may proceed themselves on board the ships of their nation which have received pratique, or send on board a delegate, to interrogate the captain or crew, to examine the ship's papers, receive declarations relative to the voyage and its incidents, draw up manifests, and facilitate the departure of the above-mentioned ships. They may also, as far as the laws of the country permit, accompany the captain or members of the crew to the tribunals or public offices of the district in which they reside, to interpret for them in the business or demands which they may there have to do or make.

XVIII. With regard to average incurred during the voyage of ships of either State, whether they enter voluntarily or arrive in consequence of causes beyond their control, in the ports of the other, Consuls-General, Consuls, or Vice-Consuls will not intervene otherwise than in accordance with the respective laws of each country.

XIX. Merchant-vessels of either State are not exempt from local jurisdiction; they may not give asylum on board to criminals. Consuls-General, Consuls or Vice-Consuls will, however, act independently in regard to questions which may arise between the captain, officers, and crew of merchant-vessels of their nation in respect to contracts for engagement or discharge. The above-mentioned Consular Agents will also maintain order on board without the intervention of the local authorities, unless the conduct of the captain or the crew be such as to affect the tranquillity or good order

of the country. The decisions of such authorities shall not, however, prevent the disputing parties from bringing the case before the competent Tribunals on their return to their own country.

XX. Consular Agents may request the assistance of the local authorities for the arrest, detention, and custody of deserters from merchant-ships belonging to the nation they represent. The application shall be made in writing to the competent authorities, and the surrender of the deserter will be granted, provided that the ship's register, list of crew, and other documents are forwarded, proving that the individual claimed was a member of the crew of the vessel, and that he is under agreement to continue to serve in the vessel. An exception shall be made if the deserter should be a subject or citizen of the country in which his surrender is required. Upon the arrest of the deserter he will be placed at the disposition of the Consular Agent, and may remain confined in the public jails at the request and expense of the person making application, until he is sent on board the ship to which he belongs, or some other vessel of the same nation. But if he should not be sent on board within fifteen days from the time when he has been placed at the disposition of the Consular Agent, he will be released, and shall not be arrested again for the same cause.

It is understood that in the event of a deserter having committed any crime, offence, or violation of the law on land, his surrender may be suspended until such time as the competent Tribunal shall have pronounced sentence, and the same shall have been executed.

XXI. In the event of the decease in the territory of one State of a citizen or subject of the other, without heirs or testamentary executor, the proper Consular Agent will administer the estate in conformity with the laws of the country in which he resides.

XXII. Consuls-General, Consuls and Vice-Consuls, as the official representatives of their absent compatriots, do not require special powers for the protection of their rights and interests, but they may not receive without such powers money or effects belonging to the same.

XXIII. Consuls-General, Consuls and Vice-Consuls may protest against any infraction of existing Treaties by addressing themselves to the authorities of the district in which they reside, and, if necessary, making representations to the supreme Government-through the Diplomatic Agent, or, in the absence of the latter, direct.

XXIV. Consuls-General, Consuls or Vice-Consuls may legalize any class of document emanating from the authorities or officials of the nation which they represent. They will display in their offices the table of Consular Fees.

XXV. The present Convention does not extend to Iceland or Greenland.

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### 3. Treaty<sup>1</sup> of Friendship, Commerce and Consular Rights between the United States of America and Germany, signed at Washington on 8 December 1923<sup>2</sup>, as amended<sup>3</sup>

*Article XVII.* Each of the High Contracting Parties agrees to receive from the other, consular officers in those of its ports, places and cities, where it may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the High Contracting Parties shall, after entering upon their duties, enjoy reciprocally in the territories of the other all the rights, privileges, exemptions and immunities which are enjoyed by officers of the same grade of the most favored nation. As official agents, such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the state which receives them.

The Government of each of the High Contracting Parties shall furnish free of charge the necessary exequatur of such consular officers of the other as present a regular commission signed by the chief executive of the appointing state and under its great seal; and it shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer of that Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function. On the exhibition of an exequatur, or other document issued in lieu thereof to such subordinate, such consular officer shall be permitted to enter upon his duties and to enjoy the rights, privileges and immunities granted by this treaty.

*Article XVIII.* Consular officers, nationals of the state by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at the trial by a consular officer as a witness may be demanded by the prosecution or defense. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

Consular officers shall be subject to the jurisdiction of the courts in the state which receives them in civil cases, subject to the proviso, however, that when the officer is a national of the state which appoints him and is engaged in no private occupation for gain, his testimony shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at the trial

<sup>1</sup> *Treaties, Conventions, International Acts, Protocols, and Agreements between the United States of America and Other Powers, 1923-1937, vol. IV, p. 4191.*

<sup>2</sup> Ratified.

<sup>3</sup> By an Exchange of Notes dated 19 March and 21 May 1925, by the Agreement signed at Washington on 3 June 1935, by the Agreement of 3 June 1953, and by the treaty of 29 October 1954.

whenever it is possible to do so without serious interference with his official duties.

*Article XIX.* Consular officers, including employees in a consulate, nationals of the State by which they are appointed, other than those engaged in private occupations for gain within the State where they exercise their functions shall be exempt from all taxes, National, State, Provincial and Municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from property of any kind situated or belonging within the territories of the State within which they exercise their functions. All consular officers and employees, nationals of the State appointing them shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services.

Lands and buildings situated in the territories of either High Contracting Party, of which the other High Contracting Party is the legal or equitable owner and which are used exclusively for governmental purposes by that owner, shall be exempt from taxation of every kind, National, State, Provincial and Municipal, other than assessments levied for services or local public improvements by which the premises are benefited.

*Article XX.* Consular officers may place over the outer door of their respective offices the arms of their State with an appropriate inscription designating the official office. Such officers may also hoist the flag of their country on their offices including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat or vessel employed in the exercise of the consular function.

The consular offices and archives shall at all times be inviolable. They shall under no circumstances be subjected to invasion by any authorities of any character within the country where such offices are located. Nor shall the authorities under any pretext make any examination or seizure of papers or other property deposited within a consular office. Consular offices shall not be used as places of asylum. No consular officer shall be required to produce official archives in court or testify as to their contents.

Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, secretaries or chancellors, whose official character may have previously been made known to the government of the State where the consular function was exercised, may temporarily exercise the consular function of the deceased or incapacitated or absent consular officer; and while so acting shall enjoy all the rights, prerogatives and immunities granted to the incumbent.

*Article XXI.* Consular officers, nationals of the State by which they are appointed, may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting their countrymen in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the government of the country.



*Article XXII.* Consular officers may, in pursuance of the laws of their own country, take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of their own country. Such officers may draw up, attest, certify and authenticate unilateral acts, deeds, and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party. They may draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted within, the territories of the State by which they are appointed, embracing unilateral acts, deeds, testamentary dispositions or agreements executed solely by nationals of the State within which such officers exercise their functions.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated under his official seal by the consular officer, shall be received as evidence in the territories of the contracting parties as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorized in the country by which the consular officer was appointed; provided, always that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

*Article XXIII.* A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in cases, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered a port within his consular district. Such an officer shall also have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided the local laws so permit.

When an act committed on board of a private vessel under the flag of the State by which the consular officer has been appointed and within the territorial waters of the State to which he has been appointed constitutes a crime according to the laws of that State, subjecting the person guilty thereof to punishment as a criminal, the consular officer shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board of a vessel under the flag of his country within the territorial waters of the State to which he is appointed, and upon such a request the requisite assistance shall be given.

A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State to which he is appointed to render assistance as an interpreter or agent.

*Article XXIV.* In case of the death of a national of either High Contracting Party in the territory of the other without having in the territory of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of his death,

in order that necessary information may be forwarded to the parties interested.

In case of the death of a national of either of the High Contracting Parties without will or testament, in the territory of the other High Contracting Party, the consular officer of the State of which the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

*Article XXV.* A consular officer of either High Contracting Party may in behalf of his non-resident countrymen receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws or other like statutes provided he remit any funds so received through the appropriate agencies of his Government to the proper distributees, and provided further that he furnish to the authority or agency making distribution through him reasonable evidence of such remission.

*Article XXVI.* A consular officer of either High Contracting Party shall have the right to inspect within the ports of the other High Contracting Party within his consular district, the private vessels of any flag destined or about to clear for ports of the country appointing him in order to observe the sanitary conditions and measures taken on board such vessels, and to be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country, and to inform his Government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels therein.

*Article XXVII.* Each of the High Contracting Parties agrees to permit the entry, free of all duty and without examination of any kind, of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, whether accompanying the officer to his post or imported at any time during his incumbency thereof; provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories.

It is understood, however, that this privilege shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to governmental supplies.

*Article XXVIII.* All proceedings relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other shall be directed by the consular officer of the country to which the vessels belong and within whose district the wreck may have occurred. Pending the arrival of such officer, who shall be immediately informed of the occurrence, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property. The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked, and to carry into effect the arrangements made for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any customhouse charges, unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

#### **4. Convention consulaire<sup>1</sup> entre le Royaume d'Italie et la République tchécoslovaque signée à Rome, le 1<sup>er</sup> mars 1924<sup>2</sup>**

##### *Article premier*

1. Chacune des deux Hautes Parties contractantes aura la faculté d'établir des offices consulaires dans les ports, villes et autres localités du territoire de l'autre Partie et d'y nommer des consuls généraux, consuls, vice-consuls ou agents consulaires. Ces fonctionnaires consulaires pourront être de carrière ou honoraires, et, en tant qu'ils ne sont pas des fonctionnaires de carrière, ils pourront être choisis parmi les ressortissants des deux États, comme parmi les étrangers.

2. Les fonctionnaires visés à l'alinéa 1<sup>er</sup> présenteront leurs provisions et seront réciproquement admis et reconnus pour le district fixé par l'État dont ils relèvent selon les règles et formalités établies dans l'État de leur résidence. Les modifications ultérieures de l'étendue de ce district seront notifiées au Ministère des affaires étrangères de l'État où les dits fonctionnaires exercent leurs fonctions.

3. Pour exercer librement leurs fonctions, les chefs des offices consulaires devront obtenir l'exequatur qui sera délivré sans frais. Sur la présentation dudit exequatur, l'autorité compétente de l'État de leur résidence prendra immédiatement les mesures nécessaires pour qu'ils puissent s'acquitter des devoirs de leur charge et qu'ils soient admis à la jouissance des exemptions, prérogatives, immunités, honneurs et privilèges qui y sont attachés.

4. Les consuls généraux et consuls, en tant qu'ils y sont autorisés par leurs Gouvernements, pourront nommer des vice-consuls ou agents consulaires dans les ports, villes et autres localités de leurs districts consulaires, sauf l'agrément préalable de l'État de leur résidence.

<sup>1</sup> S.D.N., *Recueil des traités*, vol. 34, p. 56.

<sup>2</sup> L'échange des ratifications a eu lieu à Rome, le 19 janvier 1925.

5. Ces vice-consuls et ces agents consulaires seront munis d'un brevet délivré par l'autorité qui les aura nommés et sous les ordres de laquelle ils devront être placés.

6. Les deux Hautes Parties contractantes se réservent le droit de déterminer les localités où il ne leur conviendra pas d'admettre des fonctionnaires consulaires; bien entendu que, sous ce rapport, elles ne s'opposeront respectivement aucune restriction qui ne serait commune à tous les autres États.

7. Si l'une des Hautes Parties contractantes juge nécessaire de retirer l'exequatur déjà accordé, elle sera obligée de communiquer à l'autre Haute Partie contractante les motifs de son procédé.

8. Les chefs, ainsi que tous les fonctionnaires de l'office consulaire, en tant qu'ils ne sont pas des ressortissants de l'État de leur résidence, seront munis, de la part du Ministère des affaires étrangères de l'État où ils résident, d'une carte spéciale d'identité portant la photographie et la signature du titulaire établissant leur qualité officielle et les recommandant à la protection des autorités locales.

9. Dans l'exercice de leurs fonctions et dans l'accomplissement de leur missions officielles, ainsi que pour ce qui concerne le plus convenable établissement des offices et des logements du chef et du personnel, les fonctionnaires consulaires seront assurés de trouver auprès de l'État de leur résidence l'appui et le concours les plus larges.

#### *Article 2*

1. Les chefs des offices consulaires, y compris les agents consulaires, pourront placer sur les bâtiments où sont installés leurs offices l'écusson aux armes de l'État qui les a nommés avec l'inscription relative.

2. Ils pourront arborer le pavillon de l'État qui les a nommés sur le siège consulaire aux jours de solennités publiques, ainsi que dans d'autres circonstances d'usage.

3. Ces chefs pourront également arborer le pavillon de l'État qui les a nommés sur les bateaux dans lesquels ils s'embarqueraient pour l'exercice de leurs fonctions.

4. Il est bien entendu que ces marques extérieures ne pourront jamais être interprétées comme constituant un droit d'asile; elles serviront avant tout à désigner aux ressortissants l'office consulaire.

#### *Article 3*

1. En cas d'empêchement, d'absence ou de décès des consuls généraux, consuls, vice-consuls ou agents consulaires, les fonctionnaires consulaires adjoints seront autorisés, dans l'ordre fixé par l'État dont ils relèvent, à exercer par intérim les fonctions de chef de l'office consulaire.

2. Les autorités locales dûment prévenues seront tenues de leur prêter assistance et protection et de leur assurer, pendant la gestion intérimaire, la jouissance des exemptions, prérogatives, immunités, honneurs et privilèges reconnus par la présente Convention aux chefs qu'ils remplacent.

#### *Article 4*

Les chefs des offices consulaires et les autres fonctionnaires consulaires, y compris les fonctionnaires honoraires, ne seront pas soumis à la juridiction de l'État où ils résident, en tant qu'il s'agit de l'exercice de leurs fonctions.

*Article 5*

1. Les fonctionnaires consulaires italiens dans la République tchécoslovaque et les fonctionnaires consulaires tchécoslovaques dans le Royaume d'Italie jouiront de toutes les exemptions, prérogatives, immunités, honneurs et privilèges dont jouissent ou jouiront à l'avenir les fonctionnaires consulaires du même grade de la nation la plus favorisée.

2. Il est convenu, toutefois, qu'aucune des Hautes Parties contractantes ne pourra invoquer le bénéfice résultant de la clause de la nation la plus favorisée et exiger en faveur de ses fonctionnaires consulaires des exemptions, prérogatives, immunités, honneurs et privilèges plus étendus que ceux accordés par elle-même aux fonctionnaires consulaires de l'autre Haute Partie contractante.

3. Les chefs des offices consulaires de carrière, tous les fonctionnaires de carrière attachés à leurs offices, ainsi que le personnel en service exclusif de l'office ou auprès des familles des fonctionnaires consulaires, en tant qu'ils ne sont pas des ressortissants de l'État de leur résidence, sont exempts des charges personnelles militaires.

4. Les chefs des offices consulaires et les fonctionnaires de carrière y attachés ayant la qualité de rédacteurs sont aussi, en tant qu'ils ne sont pas des ressortissants de l'État de leur résidence, exempts des charges matérielles militaires.

*Article 6*

1. L'exemption des impôts et des taxes est réglée par des accords spéciaux.

2. On pourra importer sans permission et en exemption des droits de douane et de toutes autres taxes imposées par les États respectifs pour l'importation des biens meubles :

a) Le mobilier des fonctionnaires consulaires qui se rendent dans le territoire de l'État de leur future résidence;

b) Les meubles et les objets de bureau pour le premier établissement;

c) Les objets affectés au service de l'office consulaire, surtout les écussons, les drapeaux, les enseignes, les estampilles et les imprimés officiels pour le service courant de l'office.

3. Exception est faite pour les objets de chancellerie.

*Article 7*

1. Les chefs des offices consulaires, en tant qu'ils sont ressortissants de l'État qui les a nommés, et les autres fonctionnaires consulaires de carrière jouiront de l'immunité personnelle et ne pourront être mis en état d'arrestation ni en détention préventive par la police ou par les agents des tribunaux, sauf dans le cas qu'ils seraient pris en flagrant délit, quand il s'agit d'une infraction qui, conformément aux lois de l'État dans lequel elle a été perpétrée, entraîne une peine privative de liberté dont la durée est d'au moins un an ou une peine plus sévère.

2. Dans le cas où les personnes citées à l'alinéa précédent seraient arrêtées et chaque fois quand une instruction pénale serait ouverte contre elles, le Gouvernement de l'État dans le territoire duquel l'instruction pénale a été ouverte en informera sans délai le représentant diplomatique de l'État dont le prévenu relève.

*Article 8*

1. Les fonctionnaires consulaires seront obligés, sur l'invitation des autorités judiciaires, de répondre comme témoins en justice. S'il s'agit d'un fonctionnaire consulaire de carrière, l'autorité judiciaire lui demandera par écrit s'il désire être entendu au siège consulaire ou s'il consent à se présenter personnellement au siège de l'autorité judiciaire. La réponse du fonctionnaire devra être donnée par écrit et sans délai. Si l'interrogatoire doit avoir lieu au siège consulaire, il devra être fixé en tout cas de manière à rendre possible cette déposition dans le délai fixé éventuellement par l'autorité judiciaire.

2. L'interrogatoire aura lieu d'après les formes prévues par les lois locales, et le procès-verbal sera également dressé suivant ces formes.

3. Devant les tribunaux, les fonctionnaires consulaires pourront refuser une déposition aussi sur la base du secret professionnel.

4. Si le tribunal ne reconnaît pas le bien-fondé du refus de répondre comme témoin sur la base du secret professionnel, il en informera son Gouvernement, qui s'adressera au représentant diplomatique de l'État dont relève le fonctionnaire consulaire pour régler le différend par la voie diplomatique. L'application de toute mesure coercitive par le tribunal est exclue.

5. Les stipulations de l'alinéa précédent seront également applicables pour la procédure devant les autorités administratives.

*Article 9*

1. Les archives consulaires sont toujours inviolables et les autorités locales ne pourront, sous aucun prétexte, fouiller ou saisir les livres, les papiers et autres objets qui en font partie.

2. Les livres, documents et objets officiels devront toujours être séparés de la correspondance privée, des livres et des papiers relatifs au commerce ou à l'industrie que pourraient exercer les fonctionnaires consulaires non de carrière.

3. Les livres, les documents et les objets officiels ne pourront être délivrés sous aucune condition.

4. La correspondance officielle est inviolable et elle ne sera pas soumise à la censure. Il en est de même pour les dépêches télégraphiques, radio-télégraphiques, les phonogrammes et les communications téléphoniques.

5. Les chefs des offices consulaires de carrière, en tant qu'ils sont ressortissants de l'État qui les a nommés, sont autorisés de recevoir et d'envoyer des dépêches en chiffre dans leurs rapports avec toutes les autorités gouvernementales de l'État dont ils relèvent, y compris les missions diplomatiques et les offices consulaires du même État.

*Article 10*

Les fonctionnaires consulaires de carrière et les fonctionnaires honoraires pourront employer pour les travaux de leurs ménages des personnes n'étant pas ressortissantes de l'État où ils résident. Ces personnes ne subiront de ce chef aucune entrave de la part des autorités locales.

*Article 11*

1. Les fonctionnaires consulaires ont le droit de protéger les ressortissants de l'État qui les a nommés et de défendre, dans la mesure du droit et des

usages internationaux aussi bien que dans les limites de leur compétence, tous leurs droits et leurs intérêts et de pourvoir au développement des relations économiques entre les deux États. Il leur incombe la protection des veuves, des mineurs et des personnes incapables de soigner leurs intérêts ressortissant de l'État qui les a nommés.

2. Il leur revient également la protection des ressortissants de l'État qui les a nommés, lorsqu'ils passeront sur le territoire de leur résidence comme émigrants ou rapatriants aussi bien que la sauvegarde de ceux-ci au moment de leur passage, notamment dans les endroits où il y a des ports.

3. Dans ce but ils pourront s'adresser à toutes les autorités de leur district consulaire pour réclamer contre toute infraction du droit émanant des traités existant entre les deux Hautes Parties contractantes et contre tout abus dont les ressortissants de l'État qui les a nommés pourraient avoir à se plaindre.

4. Ces autorités seront obligées de répondre aux demandes qui leur seraient adressées par les fonctionnaires consulaires. Si la demande est faite par écrit, la réponse devra aussi être donnée par écrit, et, si la démarche consulaire reste sans effet, il y aura lieu à recours en voie diplomatique.

5. L'intervention par écrit auprès des autorités du district se fera dans la langue officielle de l'État où le fonctionnaire consulaire réside.

#### *Article 12*

Les fonctionnaires consulaires de chacune des deux Hautes Parties contractantes, en tant qu'ils y seront autorisés par les lois de l'État qui les a nommés, auront les droits suivants :

a) De recevoir dans leur chancellerie, au domicile des parties et à bord des navires et des bateaux battant le pavillon de l'État qui les a nommés, toutes les déclarations que pourraient avoir à faire les ressortissants de l'État dont les fonctionnaires consulaires relèvent ;

b) De dresser, légaliser ou recevoir en dépôt les dispositions testamentaires des ressortissants de l'État qui les a nommés et tout autre acte de droit privé qui concerne ces ressortissants ;

c) De dresser, légaliser ou recevoir en dépôt les contrats et arrangements écrits et conclus entre les ressortissants de l'État dont les dits fonctionnaires relèvent ou bien entre les dits ressortissants et les ressortissants de l'État de leur résidence, enfin les actes où figurent seulement les personnes dernièrement mentionnées, en tant qu'ils se rapportent aux immeubles se trouvant sur le territoire de l'État qui les a nommés ou que ces actes sont destinés à y produire des effets juridiques ; les déclarations et les attestations contenues dans les actes ci-dessus mentionnés et leur expédition, pourvu que ces actes aient été rédigés dans les formes requises par les lois de l'État qui a nommé les fonctionnaires consulaires et qu'ils aient été soumis aux formalités qui régissent la matière dans l'État où l'acte doit recevoir son exécution, auront, après avoir été dûment légalisés par le fonctionnaire consulaire et revêtus du sceau de l'office consulaire, la même force et la même valeur que si ces actes avaient été passés par devant d'autres officiers publics compétents ou un notaire de l'autre Haute Partie contractante ; dans le cas où un doute s'éleverait sur l'authenticité ou l'exactitude de l'expédition d'un document enregistré à la chancellerie d'un des offices consulaires, on ne pourra en refuser la confrontation avec l'original à l'intéressé qui en ferait la demande et ladite personne pourra assister à cette confrontation ;

d) De traduire et légaliser toute espèce d'actes et documents émanés des autorités ou fonctionnaires de l'État qui a nommé les fonctionnaires consulaires ou de l'État de leur résidence; ces traductions auront, dans les deux États, la même force et la même valeur que si elles avaient été faites par les fonctionnaires publics ou les interprètes jurés de ces deux États.

*Article 13*

1. En cas de décès d'un ressortissant de l'une des deux Hautes Parties contractantes sur le territoire de l'autre, les autorités locales devront en donner avis immédiatement au représentant consulaire dans le district duquel le décès aura eu lieu. Les représentants consulaires, de leur côté, devront donner le même avis aux autorités locales, lorsqu'ils en seront informés les premiers.

2. Les autorités locales devront transmettre le certificat de décès au représentant consulaire avec l'avis mentionné à l'alinéa précédent, et, le cas échéant, la copie du procès-verbal relatif légalisée par le tribunal.

3. Le procès-verbal sera dressé conformément aux prescriptions locales en vigueur dans l'État où le fonctionnaire consulaire exerce ses fonctions. Sur la demande du représentant consulaire compétent, le procès-verbal pourra également être dressé d'après une formule spéciale, en tant que les lois et les règlements locaux ne s'y opposent pas.

*Article 14*

1. En cas de décès d'un ressortissant d'une des Hautes Parties contractantes possédant des biens dans le territoire de l'autre, l'autorité locale compétente remettra les biens meubles qui se trouvent sur son territoire au représentant consulaire de l'État dont le défunt était ressortissant pour les mesures requises par l'ouverture de la succession et pour la décision des différends éventuels qui pourraient avoir rapport avec la succession.

2. Les fonctionnaires consulaires de la Haute Partie contractante dont le défunt était ressortissant coopéreront avec les autorités locales et, le cas échéant, avec les tribunaux, conformément aux pouvoirs relatifs et dans la mesure stipulée par la présente Convention dans toutes les procédures pour éviter les dommages et dégâts qui pourraient menacer les biens dont il s'agit ou pour assurer les droits des héritiers, des légataires, des créanciers et d'autres personnes intéressées, en tant qu'ils sont ressortissants de l'État où l'héritage se trouve, et pour assurer le paiement des taxes publiques qui se rapportent à la succession.

*Article 15*

1. Il sera de la compétence du représentant consulaire de:

a) Sauvegarder les intérêts des ressortissants de l'État dont il relève, en tant qu'ils n'ont pas désigné un mandataire;

b) Assister personnellement ou par un délégué à l'apposition des scellés des biens meubles successoriaux; à cette occasion, le représentant consulaire pourra apposer aussi ses scellés à la succession; il pourra également apposer ses scellés à la succession après un avis préalable à l'autorité locale, si elle n'y avait pas procédé; les scellés ne devront être levés qu'en présence du représentant consulaire ou de son délégué; toutefois, si après un avertisse-



ment remis 48 heures avant l'échéance du délai fixé et adressé par les autorités locales au représentant consulaire, pour qu'il assiste à la levée des scellés, l'invitation restait sans effet, l'autorité locale pourra lever non seulement les scellés apposés par elle, mais aussi les scellés du représentant consulaire;

*c)* Se faire représenter et coopérer à l'établissement de l'inventaire des biens successoriaux et de contresigner le procès-verbal relatif;

*d)* Proposer la vente des biens successoriaux qui pourraient se détériorer ou dont la conservation serait difficile, notamment des récoltes et des effets dont la vente pourrait en ce moment s'effectuer en des conditions exceptionnellement favorables et assister à cette vente;

*e)* Coopérer au dépôt en lieu sûr des valeurs, des bijoux et des effets de la succession du défunt, ainsi que du montant des créances réalisées et du produit des rentes qu'on percevra; à la nomination, s'il le faut, d'une personne sûre et digne de confiance pour administrer la succession; coopérer notamment au paiement des dettes en commun accord entre les intéressés à la succession et ses créanciers.

2. Toutes les mesures dont il est question aux paragraphes *b, c, d, e*, de cet article seront prises par les autorités locales compétentes conformément aux lois de l'État où le représentant consulaire exerce ses fonctions. Si le représentant consulaire de l'État dont le défunt était ressortissant se trouve dans l'endroit où sont les biens meubles successoriaux, ces mesures ne pourront être prises qu'après un avertissement préalable au représentant consulaire.

3. Si le représentant consulaire dont il est question à l'alinéa précédent n'est pas dans le lieu où se trouvent les biens meubles successoriaux, il doit être sans retard informé par les autorités locales compétentes des mesures qui ont été prises à l'égard de la succession.

4. Sur la demande du représentant consulaire, les mesures susmentionnées pourront être prises également d'après une formule spéciale, changées ou annulées, en tant que les lois et prescriptions locales ne s'y opposent pas et que cela peut être fait sans désavantage pour les ressortissants de l'État où les biens successoriaux se trouvent.

5. A l'occasion de la remise des biens meubles successoriaux, on observera les dispositions données par le représentant consulaire dans les limites des lois locales.

#### *Article 16*

1. Si des ressortissants de l'État où le décès a eu lieu ou d'une tierce Puissance avaient à faire valoir des droits sur une succession administrée par un fonctionnaire consulaire, et des difficultés survenaient, notamment à cause de réclamations donnant lieu à une contestation, les consuls généraux, consuls, vice-consuls et agents consulaires n'auront aucun droit de terminer ou résoudre ces difficultés qui devront être soumises à l'autorité judiciaire locale.

2. Lesdits fonctionnaires consulaires agiront alors comme représentants de la succession, c'est-à-dire que tout en conservant l'administration et le droit de liquidation, ainsi que celui d'effectuer les ventes d'effets dans les formes susénoncées, ils veilleront aux intérêts des héritiers et auront la faculté de désigner des avocats chargés d'en défendre les droits devant les

autorités judiciaires. Il est bien entendu qu'ils remettront à celles-ci tous les papiers et documents nécessaires à éclaircir la question qui leur a été soumise.

3. Dans le cas où l'autorité judiciaire aura prononcé un jugement et celui-ci sera devenu exécutoire, les consuls généraux, consuls, vice-consuls et agents consulaires seront tenus à l'exécuter, à moins qu'ils ne se pourvoient en requête extraordinaire, et ils continueront alors de plein droit la liquidation dans le cas où elle aurait été suspendue d'ordre de l'autorité judiciaire jusqu'à la fin de la contestation.

#### *Article 17*

1. Chaque fois que les autorités locales d'une des deux Hautes Parties contractantes, au cours des actes qui sont de leur compétence, constateront qu'un ressortissant de l'autre Haute Partie contractante se trouve intéressé dans une succession ouverte sur leur territoire, soit en qualité d'héritier ou de légataire, soit en qualité d'héritier ayant droit à la portion légitime, soit en qualité de donataire pour cause de mort, soit pour une autre raison quelconque, elles seront tenues d'en informer immédiatement le représentant consulaire compétent de l'autre Haute Partie contractante.

2. Si les personnes dont il est question à l'alinéa précédent ne sont pas présentes ou bien si, pour une raison quelconque, elles ne sont pas capables de représenter personnellement leur cause, le chef de l'office consulaire compétent ou un autre fonctionnaire consulaire par lui délégué sera autorisé de les représenter devant les autorités locales aussi longtemps qu'elles n'auront pas institué d'autre mandataire.

#### *Article 18*

1. Les consuls généraux, consuls, vice-consuls et agents consulaires auront le droit d'organiser, s'il y a lieu, la tutelle ou la curatelle des ressortissants de l'État dont ces fonctionnaires consulaires relèvent, conformément aux lois de cet État.

2. Les autorités locales seront tenues à notifier sans délai à l'office consulaire le plus rapproché de l'autre Haute Partie contractante tous les cas où il y aurait lieu de pourvoir à la nomination d'un tuteur ou d'un curateur dans l'intérêt d'un ressortissant de l'État dont cet office consulaire relève.

3. La protection des personnes sujettes à la tutelle ou à la curatelle ainsi que la protection de leurs biens et intérêts revient à l'office consulaire aussi longtemps que les tribunaux ou les autorités compétentes de l'État dont ces personnes sont ressortissants n'auraient pris d'autres mesures. Notamment la question de nommer les tuteurs et curateurs provisoires ou de les relever de leurs fonctions ne pourra être décidée par les autorités locales qu'avec le consentement de l'office consulaire. Également les mesures importantes concernant les personnes susdites ou leurs biens et intérêts exigeront le consentement du chef de l'office consulaire compétent ou de son délégué.

#### *Article 19*

Les fonctionnaires consulaires auront le droit de recevoir le paiement des prestations, rentes ou indemnités allouées aux ayants droit selon les lois de l'État dont ils relèvent, et notamment par l'application des lois de prévoyance sociale.

*Article 20*

1. Les fonctionnaires consulaires de chacune des deux Hautes Parties contractantes auront le droit de porter toute sorte de secours aux navires et bateaux battant le pavillon de l'État qui les a nommés et séjournant dans les ports de leur district consulaire, et cela sans distinction entre la navigation maritime et fluviale.

2. Les consuls généraux, consuls, vice-consuls et agents consulaires pourront se rendre personnellement ou envoyer des délégués à bord des navires et des bateaux susvisés dès qu'ils auront été admis en libre pratique, interroger le capitaine, l'équipage, et toutes les personnes se trouvant à bord, examiner les papiers de bord, recevoir les déclarations sur le voyage des navires et des bateaux, sur leur destination et sur les incidents de la traversée, dresser les manifestes et faciliter l'expédition de ces navires et bateaux, assister le personnel du bord devant les tribunaux et dans les bureaux de l'administration locale pour leur servir d'interprètes et d'intermédiaires dans les affaires qu'ils auront à traiter ou dans les demandes qu'ils auront à formuler.

3. Sauf pour ce qui concerne le service de la douane et l'admission en libre pratique de la part des autorités sanitaires et du port, il est convenu que les fonctionnaires de l'administration publique ne pourront, dans les ports où réside un fonctionnaire consulaire d'une des deux Hautes Parties contractantes, opérer ni des visites ni des recherches à bord des navires et des bateaux de commerce et de plaisance sans être accompagnés d'un fonctionnaire consulaire de l'État dont ces navires ou bateaux battent le pavillon. Ils devront, en ce cas, prévenir en temps utile le représentant consulaire pour qu'il puisse assister aux opérations susdites. De même, ils devront le prévenir toujours en temps utile de toutes les déclarations que les capitaines et les équipages auront à faire devant les tribunaux et les administrations locales, afin qu'il puisse y assister pour éviter toute erreur ou fausse interprétation qui pourrait nuire à l'administration de la justice.

4. Les interventions des fonctionnaires de la justice locale et notamment les arrestations à bord des navires et des bateaux de commerce et de plaisance battant le pavillon de l'autre Haute Partie contractante pourront être effectuées sans délai, pourvu que le fonctionnaire consulaire de l'État dont ces navires ou bateaux battent le pavillon en soit prévenu.

5. L'invitation qui sera adressée, dans les cas précités, aux fonctionnaires consulaires indiquera l'endroit et l'heure précise, et si les fonctionnaires consulaires négligent de s'y rendre personnellement ou de se faire représenter par un délégué, il sera procédé en leur absence. Les autorités locales compétentes seront toutefois tenues d'informer ultérieurement sans délai les fonctionnaires consulaires de toute visite ou autre intervention officielle dont il est question dans les alinéas précédents opérées en leur absence. Elles feront de même, lorsque le fonctionnaire consulaire ne réside pas dans le port.

*Article 21*

1. En tout ce qui concerne la police des ports, le chargement et le déchargement des navires et des bateaux et la sûreté des marchandises, biens et effets seront observés les lois, ordonnances et règlements de l'État où le navire ou le bateau se trouve.

2. Aux consuls généraux, consuls, vice-consuls et agents consulaires est réservé le maintien de l'ordre intérieur à bord des navires et des bateaux marchands battant le pavillon de l'État dont ces fonctionnaires consulaires relèvent.

3. Les contestations de toute nature entre le capitaine, les officiers et les matelots et spécialement celles relatives à la solde et à l'accomplissement des engagements réciproquement contractés seront résolues par les fonctionnaires consulaires susvisés, en tant qu'ils y sont qualifiés d'après les lois de l'État dont ils relèvent. Dans le cas contraire, lesdits fonctionnaires auront toujours la faculté de régler les différends en conciliation.

4. A défaut d'une décision ou d'une transaction d'après l'alinéa précédent, les différends en cause seront déférés aux autorités compétentes de l'État dont le navire ou bateau respectif bat le pavillon, sauf les dispositions contenues dans l'article 26.

5. Les autorités locales ne pourront intervenir que lorsque les désordres survenus à bord des navires et des bateaux seraient de nature à troubler la tranquillité et l'ordre public à terre ou dans le port, ou lorsque des ressortissants locaux ou des personnes ne faisant pas partie de l'équipage s'y trouveraient mêlés.

6. Dans tous les autres cas, les autorités précitées se borneront à prêter tout appui aux représentants consulaires, si elles en sont requises par ceux-ci.

#### *Article 22*

Dans le cas où des personnes inscrites sur le rôle de l'équipage ou sur un document équivalent auraient abandonné leur service, les fonctionnaires consulaires devront s'adresser par écrit aux autorités locales compétentes et justifier, au moyen de la présentation du rôle de l'équipage ou de documents équivalents ou en produisant une copie authentique de ces documents, que les personnes susmentionnées font réellement partie de l'équipage. Sur la demande des fonctionnaires consulaires ainsi justifiée, les autorités locales leur prêteront tout secours et toute assistance pour rechercher ces personnes et les sommer de rentrer en service en dressant procès-verbal.

#### *Article 23*

Toutes les fois qu'il n'y aura pas de stipulations contraires entre les armateurs, chargeurs et assureurs, les avaries que les navires et les bateaux des deux États auront souffertes, soit qu'ils entrent dans les ports respectifs volontairement, soit par relâche forcée, seront réglées par les consuls généraux, consuls, vice-consuls ou agents consulaires de l'État dont le navire ou bateau bat le pavillon, à moins que des ressortissants locaux ou 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 devront être réglées par l'autorité compétente.

#### *Article 24*

1. Lorsqu'un navire ou un bateau battant le pavillon d'une des deux Hautes Parties contractantes fera naufrage ou échouera sur les côtes ou les territoires de l'autre Haute Partie contractante, les autorités locales devront porter le fait à la connaissance du consul général, consul, vice-consul ou agent consulaire de la circonscription et, à son défaut, à celle du consul

général, consul, vice-consul ou agent consulaire le plus voisin du lieu de l'accident.

2. Toutes les opérations relatives au sauvetage des navires et bateaux tchécoslovaques qui naufrageraient ou échoueraient sur les côtes ou les territoires du Royaume d'Italie seront dirigées par les consuls généraux, consuls, vice-consuls ou agents consulaires de la République tchécoslovaque; réciproquement, toutes les opérations relatives au sauvetage des navires et bateaux italiens qui naufrageraient ou échoueraient sur les côtes ou les territoires de la République tchécoslovaque seront dirigées par les consuls généraux, consuls ou agents consulaires du Royaume d'Italie.

3. L'intervention des autorités locales n'aura lieu dans les deux États que pour assister les représentants consulaires, maintenir l'ordre, garantir les intérêts des sauveteurs étrangers à l'équipage, assurer l'exécution des dispositions à observer pour l'entrée et la sortie des marchandises sauvées et pour sauvegarder les intérêts généraux de la navigation.

4. En l'absence et jusqu'à l'arrivée du représentant consulaire ou de la personne qu'il déléguerait à cet effet, les autorités locales devront prendre toutes les mesures nécessaires pour la protection des individus et la conservation des objets qui auront été sauvés du naufrage.

5. L'intervention des autorités locales dans ces différents cas ne donnera lieu à la perception de droits d'aucun genre en dehors de ceux que nécessiteront les opérations de sauvetage et la conservation des objets sauvés, ainsi que ceux auxquels seraient soumis, en pareil cas, les navires et les bateaux nationaux.

6. En cas de doute sur la nationalité des navires et des bateaux naufragés ou échoués, les mesures mentionnées dans le présent article seront prises par l'autorité compétente.

7. Les deux Hautes Parties contractantes conviennent, en outre, que les marchandises et les effets sauvés ne seront soumis au paiement d'aucun droit de douane, à moins qu'ils ne soient destinés à la consommation intérieure.

#### *Article 25*

Les fonctionnaires consulaires délivreront et viseront, conformément aux prescriptions de l'État qui les a nommés, les passeports et d'autres documents officiels.

#### *Article 26*

Les dispositions de la présente Convention ne portent aucune atteinte aux dispositions des actes de navigation régissant les fleuves internationaux ni aux dispositions prises par l'application de ces actes ni aux dispositions réglant la navigation sur les autres voies navigables intérieures.

#### *Article 27*

Les fonctionnaires consulaires sont autorisés à faire tous les actes se rapportant au service militaire, à la tenue des rôles militaires et à la visite sanitaire des conscrits ressortissant de l'État qu'ils représentent.

## 5. Consular convention<sup>1</sup> between Poland and the Union of Soviet Socialist Republics, signed at Moscow, 18 July 1924<sup>2</sup>

### Article 2

Consuls cannot assume their official functions till they have obtained the assent of the Government of the State in which they are to reside. As soon as such assent has been granted, they shall enjoy all the rights and privileges conferred by the present Convention.

The diplomatic representative of the State which has appointed the consul shall communicate the necessary full powers to the Government of the State to which he is accredited in the form of letters of appointment, which must be drawn up separately in each case and must state the surname, Christian names, consular rank, nationality, consular district and place of residence of the consul.

The Government of the country of residence shall accord recognition to the consul by granting him an "exequatur" as soon as possible after it has received communication of the letters of appointment.

If one of the Contracting Parties finds it impossible to grant an "exequatur", it may refuse to do so without being bound to communicate the reasons for its refusal to the other Contracting Party.

No change may be made in regard to the consular district specified in the "exequatur", except by agreement between the Contracting Parties.

### Article 8

In case of the absence, sickness or death of a consul, or of his being prevented by any other circumstance from carrying out his duties, his deputy, who must be one of the consulate staff and whose name must have been duly communicated to the Commissariat of the People (or to the Ministry) for Foreign Affairs of the consul's country of residence, shall be authorised, of full right, to fulfil the duties of the consular office *ad interim* and shall enjoy, while in the performance of his duties, all the rights, immunities and privileges which are conferred by the present Convention upon the regular consuls.

If a consul is unable to perform the functions of his office, he must inform the competent authorities of his consular district.

### Article 11

Consuls shall be entitled to defend the rights and interests of nationals of the country which has appointed them.

For this purpose consuls shall be authorised in the performance of their duties, provided that they comply with the regulations in force in the territories of the Contracting Party in question, to approach the competent authorities with a view to obtaining information of any description, or to protesting against any infringement of the rights and interests of the nationals of the country which they represent, or against any abuses of which the said nationals may desire to complain.

<sup>1</sup> League of Nations, *Treaty Series*, Vol. 49, p. 277.

<sup>2</sup> Ratifications exchanged at Warsaw, 1 April, 1926.

Consuls may not communicate direct with the Ministry (People's Commissariat) of Foreign Affairs of their country of residence or with local authorities whose offices are situated outside their consular district.

. . .  
*Article 25*

The provisions of the present Convention relating to consular officials shall also apply to officials belonging to diplomatic missions, in so far as they perform consular functions in their country of residence.

. . .

**6. Traité<sup>1</sup> de commerce et de navigation entre l'Allemagne et le Japon, signé à Tokio, le 20 juillet 1927<sup>2</sup>**

. . .

*Article III.* Chacune des Hautes Parties contractantes pourra nommer des consuls généraux, consuls, vice-consuls et agents consulaires dans tous les ports, villes et places de l'autre, à l'exception des endroits où il y aurait inconvénient à admettre de tels officiers consulaires. Cette exception, toutefois, ne sera pas faite à l'égard de l'une des Hautes Parties Contractantes sans l'être également à l'égard de toutes les autres puissances.

Les consuls généraux, consuls, vice-consuls et agents consulaires peuvent exercer leurs fonctions officielles dans le pays où ils sont nommés, aussitôt qu'ils auront obtenu l'exequatur ou autres autorisations nécessaires. Chacune des Hautes Parties contractantes se réserve le droit, selon son propre jugement, d'annuler l'exequatur ou autres autorisations, en donnant auparavant les raisons d'agir ainsi.

Les officiers consulaires de chacune des Hautes Parties contractantes jouiront, sous réserve de réciprocité, dans les territoires de l'autre des mêmes droits, privilèges et exemptions qui sont ou seront accordés aux officiers consulaires de la nation la plus favorisée.

. . .

*Article XXI.* Les consuls généraux, consuls, vice-consuls et agents consulaires seront exclusivement chargés du maintien de l'ordre intérieur à bord des navires marchands de leur pays; ils seront seuls compétents pour connaître des différends qui pourraient survenir entre les capitaines, les officiers et l'équipage, notamment en ce qui concerne le règlement des salaires et l'exécution des contrats.

Les autorités territoriales pourront intervenir à l'occasion des désordres survenus à bord lorsqu'elles les jugeraient de nature à troubler la paix ou l'ordre public dans le port ou à terre, ou lorsqu'une personne ne faisant pas partie de l'équipage s'y trouvera mêlée.

Les consuls généraux, consuls, vice-consuls et agents consulaires pourront, sauf les cas envisagés à l'alinéa précédent, demander aux autorités territoriales l'appui et l'aide pour l'arrestation et la remise des membres de l'équipage des navires marchands de leur pays, en tant qu'il ne s'agit pas de nationaux de pays.

<sup>1</sup> De Martens, *Nouveau Recueil général de Traités*, 3ème série, t. XXIX, p. 530.

<sup>2</sup> Ratifié.

Les consuls généraux, consuls, vice-consuls et agents consulaires pourront demander aux autorités territoriales la détention des membres arrêtés de l'équipage des navires marchands de leur pays.

Les frais de l'arrestation et de la détention seront à la charge des fonctionnaires consulaires demandeurs.

## 7. Consular convention <sup>1</sup> between the United States of Mexico and the Republic of Panama, signed at Mexico, 9 June 1928 <sup>2</sup>

### *Article II*

Consular officials shall exercise their functions within the limits of their respective districts, but may not assume their functions or enjoy the privileges attaching thereto until the Government to which they have been accredited has granted them the customary *exequatur* on presentation of their commission or credentials in due form, unless the said Government has granted them provisional recognition at the request of the diplomatic representative of the country concerned.

The Government of each Contracting Party shall grant the *exequatur* to Consular officials of the other Contracting Party free of charge.

### *Article III*

Consular officials to whom the *exequatur* or the provisional recognition referred to in the previous article has been granted, shall enjoy all the rights, immunities, privileges and exemptions provided for in the present Convention and those which have been or may hereafter be granted in the place of their residence to Consular officials of the same category of any other nation provided that, for its part, the other Contracting Party reciprocally grants the same advantages.

Nevertheless, the Government of each Contracting Party reserves its right to withdraw the *exequatur* at any time.

### *Article XVII*

Consular officials shall cease to exercise their functions:

(1) In virtue of an official communication from the Government which appointed them to the Government to which they were accredited, notifying the fact that their functions have ceased;

(2) If the Government which appointed them requests that an *exequatur* be granted to a successor;

(3) As a result of the withdrawal of the *exequatur* granted by the Government of the country in which they exercise their functions.

<sup>1</sup> League of Nations, *Treaty Series*, vol. CXXI, p. 199.

<sup>2</sup> Ratifications exchanged at Mexico, 12 April, 1930.



## 8. Convention consulaire <sup>1</sup> entre la Belgique et la Pologne, signée à Bruxelles, le 12 juin 1928 <sup>2</sup>

### *Article 6*

Les chefs des postes consulaires de carrière (consulats généraux, consulats, vice-consulats et agences consulaires) et les fonctionnaires de carrière du service consulaire (consuls suppléants et adjoints, vice-consuls, attachés et secrétaires consulaires, chanceliers) citoyens de l'État qui les a nommés, jouiront dans l'autre État de l'exemption de toutes réquisitions, prestations et logements militaires ainsi que des contributions directes, perçues au profit de l'État, des provinces et des communes, et dont la perception se fait sur des listes nominatives, à moins qu'elles ne soient imposées en raison de la possession de biens immeubles ou sur les intérêts d'un capital employé dans l'État où lesdits agents exercent leurs fonctions.

Cependant, cette exemption ne pourra pas s'appliquer aux fonctionnaires précités qui exerceraient une profession, une industrie ou un commerce quelconque, lesdits fonctionnaires devant, dans ce cas, être soumis au paiement des taxes dues par tous les étrangers dans les mêmes conditions.

Les privilèges et exemptions prévus ci-dessus s'appliquent également aux commis de chancellerie et employés de consulats qui, étant de carrière, sont ressortissants du pays qui les emploie et n'exercent aucun commerce ni industrie quelconque.

Les consuls et agents consulaires honoraires seront exempts des logements militaires pour les locaux affectés à leur chancellerie et à leurs archives.

Pendant un délai de six mois à dater du jour de leur entrée en fonctions, les chefs de poste et les fonctionnaires de carrière du service consulaire mentionnés aux alinéas 1 et 3 du présent article, seront autorisés, en rejoignant leur poste sur le territoire de l'autre Partie, à faire entrer, sans être astreints au paiement de droits de douane ou de taxes quelconques frappant l'importation, leur mobilier et les ustensiles de ménage qui étaient et demeurent à leur usage. Il est entendu que la présente disposition ne s'applique pas aux articles de consommation.

Les chefs de poste et les fonctionnaires du service consulaire, énumérés à l'alinéa premier du présent article, ne pourront être mis en état d'arrestation ou d'emprisonnement préventif, excepté pour des infractions qui, en vertu de la législation locale d'une région quelconque du pays de la résidence, sont punissables d'une peine privative de liberté, supérieure à une année, ou d'une peine plus grave.

En cas de poursuite judiciaire, d'arrestation ou de mise en accusation d'un chef de poste ou d'un fonctionnaire du service consulaire, désignés à l'alinéa premier du présent article, le Gouvernement de l'État sur le territoire duquel l'arrestation ou la mise en accusation a eu lieu informera sans délai le Représentant diplomatique de l'État dont relève ledit fonctionnaire consulaire.

Les chefs de postes et les fonctionnaires du service consulaire, énumérés à l'alinéa premier du présent article, ne seront pas justiciables des tribunaux de l'État de leur résidence en raison des actes de leurs fonctions, accomplis par eux dans les limites des attributions qui leur sont reconnues par la présente convention.

<sup>1</sup> S.D.N., *Recueil des traités*, vol. CXXIII, p. 26.

<sup>2</sup> L'échange des ratifications a eu lieu à Varsovie, le 6 août 1931.

## 9. Convention consulaire <sup>1</sup> entre le Royaume d'Italie et la République turque, signée à Rome, le 9 septembre 1929 <sup>2</sup>

### *Article 3*

Les consuls généraux, consuls et vice-consuls pourront exercer leurs fonctions dans leur circonscription dès qu'ils auront été admis et reconnus avec les formalités établies conformément aux règles et usages en vigueur dans le pays de leur résidence.

Sur le vu de leurs lettres de provision, ils recevront l'exequatur ou autre admission aussitôt que possible.

Si, dans un cas particulier, l'une des parties estime que l'exequatur ou autre admission ne peuvent pas être accordés ou qu'ils doivent être retirés, elle en communiquera à l'autre partie les raisons dont elle aura seule l'appréciation et, dans le second cas, avant le retrait de l'exequatur ou autre admission.

### *Article 11*

Les consuls généraux, consuls et vice-consuls ne sont pas justiciables des tribunaux du pays de leur résidence pour les actes qui découlent de leurs fonctions.

Sous réserve des privilèges et immunités mentionnés dans la présente convention, les chefs de poste et autres fonctionnaires consulaires seront soumis dans les mêmes conditions que les nationaux, tant en matière civile qu'en matière criminelle, à la juridiction des tribunaux de l'État de leur résidence.

## 10. Convention <sup>3</sup> between the United States of America and Costa Rica, signed at San José, 12 January 1948 <sup>4</sup>

### *Article I*

1. Each state agrees to receive from the other state consular representatives in those of its ports, places and cities where it may be convenient to establish consular offices and which are open to consular representatives of any foreign state. It shall be within the discretion of the sending state to determine whether the consular office to which such consular representatives shall be appointed or assigned, shall be a consulate general, consulate, vice consulate or consular agency. The sending state may prescribe the consular district to correspond to each consular office.

2. A consular officer of the sending state shall, after his official recognition and entrance upon his duties, enjoy in the territory of the receiving state, in addition to the rights, privileges, exemptions and immunities to

<sup>1</sup> S.D.N., *Recueil des traités*, vol. CXXIX, p. 196.

<sup>2</sup> L'échange des ratifications a eu lieu à Angora, le 13 avril 1932.

<sup>3</sup> *Treaties and Other International Acts Series 2045*.

<sup>4</sup> Ratifications exchanged at San José, 17 February, 1950; Entered into force 19 March, 1950.

which he is entitled by the terms of this convention, the rights, privileges, exemptions and immunities enjoyed by a consular officer of the same grade of the most-favored nation. As an official agent, such officer shall be entitled to the high consideration of all officials, national or local, with whom he has official intercourse in the receiving state.

3. Upon the appointment or assignment of a consular officer to a post within the territory of the receiving state, the sending state shall notify the receiving state in writing of such appointment or assignment. Such notification shall be accompanied with a request for the issuance to such officer of an exequatur or other formal authorization permitting the exercise of consular duties within the territory of the receiving state. Such request shall not be refused without good cause and the exequatur or authorization shall be issued free of charge and as promptly as possible. When necessary a provisional authorization may be issued pending the issuance of an exequatur or formal authorization.

4. The receiving state may revoke any exequatur, formal authorization or provisional authorization if the conduct of a consular officer gives serious cause for complaint. The reasons for such revocation shall be furnished to the sending state through diplomatic channels.

5. (a) The receiving state shall notify the appropriate local authorities of such state of the names of consular officers authorized to act within the receiving state.

(b) A consular officer in charge of a consular office shall keep the authorities of the receiving state informed of the names and addresses of the employees of the consular office. The receiving state shall designate the particular authority to whom such information is to be furnished.

6. Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, any other consular officer of the sending state to whom an exequatur, formal authorization or provisional authorization has been issued by the receiving state or any person on the staff of the consular office whose name shall previously have been made known to the authorities of the receiving state pursuant to paragraph 5 of this article, may temporarily exercise the consular duties of the deceased or incapacitated or absent consular officer, and while so acting shall enjoy all the rights, privileges, exemptions and immunities previously enjoyed by such consular officer.

7. A consular officer or diplomatic officer of the sending state, who is a national of that state, may have the rank also of a diplomatic officer or of a consular officer, as the case may be, on condition that permission for him to exercise such dual functions has been duly granted by the receiving state and appropriate recognition in a consular capacity has been granted. In any such case such person's rank as a diplomatic officer shall be understood as being superior to and independent of his rank as a consular officer. The exercise of consular duties by any diplomatic officer shall be without prejudice to any additional personal privileges and immunities which might accrue to such officer by reason of his diplomatic status.

## *Article II*

1. A consular officer who is a national of the sending state and not engaged in a 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. A consular officer or employee shall in civil proceedings be subject to the jurisdiction of the courts of the receiving state except in respect of acts performed by him within the scope of his official duties. He shall not however be permitted to assert that an act was performed by him within the scope of his official duties in any case where a third party shall have been injured as the result of negligence, for which the officer or employee would be responsible under local law, or had reason to believe that the officer or employee was acting in his personal capacity.

3. A consular officer or employee may be required to give testimony in either civil or criminal cases, except as to acts performed by him within the scope of his official duties, or as to any matter cognizable by him only by virtue of his official status, but the 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 shall, wherever possible or permissible, arrange for the taking of such testimony, orally or in writing, at his residence or office. A court may not require a consular officer or employee to give evidence as expert witness with regard to the laws of the sending state.

4. A consular officer or employee shall not be required to produce official archives in court or to testify as to their contents.

5. A consular officer or employee who is a national of the sending state and not a national of the receiving state and is not engaged in a private occupation for gain in the receiving state shall be exempt from military, naval, jury, administrative or police service of any character whatsoever.

6. (a) The buildings and premises occupied by the sending state for official consular purposes shall not be subject to military billeting or to expropriation, condemnation, confiscation or seizure, except in accordance with the laws governing the condemnation of property for public purposes and in such case only upon prior payment to the sending state of the full value of the property condemned.

(b) All furniture, office equipment and other personal property located in any building occupied for official consular purposes and all vehicles, including aircraft, used in the performance of the official business of the consular office shall not be subject to military requisition or to expropriation, condemnation, confiscation or seizure.

7. The buildings and premises occupied exclusively as a personal residence by a consular officer or employee who is a national of the sending state and not a national of the receiving state and is not exercising a private occupation for gain in the receiving state shall be afforded comparable protection to that afforded to buildings and premises occupied for official consular purposes, and the personal property of any such consular officer or employee shall be afforded comparable protection to that afforded to the personal property of a comparable nature referred to in subparagraph (b) of paragraph 6 of this article.

*Article III*

1. No tax of any kind shall be levied or assessed in the territory of the receiving state by the receiving state, or by any state, province, municipality, or other local political 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.

2. No tax of any kind shall be levied or assessed in the territory of the receiving state by the receiving state, or by any state, province, municipality, or other local subdivision thereof on the official emoluments, salaries, wages or allowances received as compensation for his consular services by a consular officer of the sending state who is not a national of the receiving state.

3. The provisions of paragraph 2 of this article also apply to the official emoluments, salaries, wages or allowances received by an employee of the consular office of the sending state who is not a national of the receiving state and whose name has been duly communicated to the appropriate authorities of the receiving state in accordance with the provisions of paragraph 5 of Article I.

4. A consular officer or employee who is a national of the sending state and is not a national of the receiving state, who is not engaged in a private occupation for gain in the territory of the receiving state and who is the holder of an exequatur or other authorization to perform consular duties or whose name has been duly communicated to the appropriate authorities of the receiving state in accordance with paragraph 5 of Article I shall, except as provided in paragraph 5 of this article, be exempt in the territory of the receiving state from all other taxes levied or assessed by the receiving state, or by any state, province, municipality, or other local political subdivision thereof, including taxes or fees levied or assessed on the use or ownership of any vehicle or vessel, including aircraft, or of any wireless, radio or television set or in respect of the driving or operation of any vehicle or vessel including aircraft.

5. (a) The provisions of paragraph 4 of this article shall apply only to taxes 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 in respect of which some other person is legally liable, notwithstanding that the burden of the tax may be passed on to the consular officer or employee. If, however, a consular officer or employee is entitled to income from sources outside the territory of the receiving state, but that income is payable to him, or collected on his behalf, by a banker or other agent within the territory of the receiving state 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 of this article shall not apply to:

(1) Taxes levied or assessed on the ownership or occupation of immovable property if such property is situated within the territory of the receiving state;

(2) Taxes on income derived from property of any kind situated within the territory of the receiving state;

(3) Taxes levied or assessed on that part of the estate of a consular officer or employee which is exclusive of property used by him in the performance of his official duties.

(c) For the purpose of clause (3) of subparagraph (b) of this paragraph any part of the estate of a deceased consular officer or employee which would otherwise be subject to taxation in the receiving state which does not exceed in value two times the amount of the official emoluments, salaries or allowances received by the consular officer or employee for the year immediately preceding his death, shall be deemed conclusively to constitute property used by him in the performance of his official duties.

#### *Article IV*

1. All furniture, equipment and supplies intended for official use in a consular office of the sending state shall be permitted entry into the territory of the receiving state free of all customs duties and internal revenue or other taxes whether imposed upon or by reason of importation.

2. The baggage and effects and other articles imported exclusively for the personal use of consular officers and employees and the members of their respective families and suites, who are nationals of the sending state and are not nationals of the receiving state and who are not engaged in any private occupation for gain in the territory of the receiving state, shall be exempt from all customs duties and internal revenue or other taxes whether imposed by the receiving state, or by any state, province, municipality, or other local political subdivision thereof, upon or by reason of importation. Such exemption shall be granted with respect to property accompanying any person entitled to claim an exemption under this paragraph on first arrival or on any subsequent arrival and with respect to property consigned to any such person during the period the consular officer or employee, for or through whom the exemption is claimed, is assigned to or is employed in the receiving state by the sending state.

3. It is understood, however, (a) that the exemptions provided by paragraph 2 of this article shall be accorded in respect of employees in a consular office only when the names of such employees have been duly communicated in accordance with the provisions of paragraph 5 of Article I, to the appropriate authorities of the receiving state; (b) that in the case of the consignments to which paragraph 2 of this article refers, either state may, as a condition to the granting of the exemption provided in this article, require that a notification of any such consignment be given in such manner as it may prescribe; and (c) that nothing herein shall be construed to permit the entry into the territory of either state of any article the importation of which is specifically prohibited by law.

#### *Article V*

1. The sending state may, in accordance with such conditions as may be prescribed by the laws of the receiving state, acquire by purchase, gift, devise, lease or otherwise, either in its own name or in the name of one or more persons acting on its behalf, the ownership or possession, or both, of lands, buildings and appurtenances located in the territory of the receiving state and required by the sending state for consular purposes. If under the local law the permission of the local authorities must be obtained as a pre-

requisite to any such acquisition such permission shall be given on application of the sending state.

2. The sending state shall have the right to erect buildings and appurtenances on land, which is owned or held by or on behalf of the sending state in the territory of the receiving state for consular purposes, subject to compliance with local building, zoning or town-planning regulations applicable to all land in the area in which such property is situated.

3. No tax of any kind shall be levied or assessed in the territory of the receiving state by the receiving state, or by any state, province, municipality, or other local political sub-division thereof, on the sending state, or on any person acting on its behalf in accordance with paragraph 1 of this article, in respect of lands and buildings or appurtenances owned or held by or on behalf of the sending state for consular purposes, except taxes or other assessments levied for services or local public improvements by which the premises are benefited. A building, or part of a building, in which a consular office is situated and the rest of which is used as a consular residence is to be regarded as used exclusively for consular purposes.

4. No tax of any kind shall be levied or assessed in the territory of the receiving state by the receiving state, or by any state, province, municipality, or other local political sub-division thereof, on the ownership, possession or use of personal property owned or used by the sending state for consular purposes.

#### *Article VI*

1. A consular officer may place on the outside of the consular office the coat of arms or national device of the sending state with an appropriate inscription designating the office and may fly the flag of the sending state over or by such office. He may also place the coat of arms or national device and display the flag of the sending state on vehicles and vessels, including aircraft, employed by him in the exercise of his consular duties. A consular officer may display the flag of the sending state over or by his residence on the occasions which he considers appropriate.

2. The quarters where consular business is conducted and the archives of the consular office of the sending state shall at all times be inviolable, and under no pretext shall any of the authorities of the receiving state make any examination or seizure of papers or other property in such quarters or archives. When a consular officer is engaged in business within the territory of the receiving state, the files and documents of the consular office shall be kept in a place entirely separate from the place where private or business papers are kept.

3. Official consular correspondence shall be inviolable and the local authorities shall not examine or detain any such correspondence.

#### *Article VII*

1. A consular officer of the sending state may within his consular district address the authorities of the receiving state, or of any state, province, municipality, or other local political sub-division thereof, for the purpose of protecting the nationals of the sending state in the enjoyment of rights accruing by treaty or otherwise and may register complaints against the infraction of such rights. Failure upon the part of the proper authorities

to grant redress or to accord protection may justify interposition through diplomatic channels. In the absence of a diplomatic representative, the principal consular officer stationed at the capital of the receiving state may apply directly to the Government of the receiving state.

2. (a) A consular officer shall, within his consular district, have the right:

(1) To interview, communicate with, and advise any national of the sending state;

(2) To inquire into any incidents which have occurred affecting the interests of any national of the sending state;

(3) To visit, upon notification to the appropriate authority, and have private access to any national of the sending state who is imprisoned or detained by the authorities of the receiving state; and

(4) To assist any national of the sending state in proceedings before or in relations with the appropriate authorities of the receiving state or of any state, province, municipality, or of any local political sub-division thereof.

(b) A consular officer shall be informed immediately by the appropriate authorities of the receiving state when any national of the sending state is confined in prison awaiting trial or otherwise detained in custody within his consular district by such authorities.

3. A national of the sending state shall have the right at all times to communicate with a consular officer of the sending state.

#### *Article VIII*

1. (a) A consular officer of the sending state may within his district:

(1) Authenticate or certify signatures, documents or copies of documents;

(2) Prepare, receive, legalize, certify and attest declarations or depositions;

(3) Prepare, attest, receive the acknowledgments of, certify, authenticate, legalize and in general, take such action as may be necessary to perfect or to validate any document or instrument of a legal character; and

(4) Perform such other analogous services as he is authorized to perform by the laws of the sending state;

(b) A consular officer may perform the services specified in subparagraph (a) of this article whenever such services are required by a national of the sending state for use outside of the territory of the receiving state or by any person for use in the territory of the sending state or are rendered in accordance with procedures, not prohibited by the laws of the receiving state, established by the sending state for the protection of its nationals abroad or for the proper administration of its laws and regulations.

(c) A consular officer may also, to the extent permitted by the receiving state and in conformity with authority conferred on him by the sending state, perform the services specified in subparagraph (a) of this article in circumstances other than those provided for by subparagraph (b) of this article whenever the rendition of such services shall be deemed to be necessary or expedient.

#### *Article IX*

1. (a) Whenever the local authorities of the receiving state shall learn that a national of the sending state died in a locality subject to the jurisdic-



tion of the receiving state and that there is not in the receiving state any person appointed by the decedent as his executor or as the representative of his estate or entitled to claim the whole or any part of the proceeds of the estate as his heir or next of kin or as a beneficiary under his will, such authorities shall advise the nearest consular officer of the sending state of the death of the decedent.

(b) Whenever the local authorities of the receiving state shall learn that a decedent, irrespective of his nationality or the place of his residence, left in the receiving state property in which a person known to be a national of the sending state has an interest under the terms of the decedent's will or in accordance with the appropriate laws of descent and distribution, or in any other manner, the local authorities shall furnish the nearest consular officer of the sending state with such information as may be needed by him to protect the interests of such national.

2. (a) In any case where a deceased person leaves property in the receiving state and a legal or equitable interest in such property is held or claimed by a national of the sending state, who is not resident in the territory of the receiving state and is not legally represented there by any person, the consular officer of the sending state in whose district the estate of the decedent is being administered or, if no administration has been instituted, the property is situated, shall have the right, except as such right may be limited by Section 3 of this article, 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 favor of the consular officer. If subsequently such national becomes legally represented in the territory of the receiving state and the consular officer is notified to that effect the position of the consular officer will be as if the powers of attorney had become revoked.

(b) The provisions of subparagraph (a) of this article apply whatever the nationality of the decedent and irrespective of the place of his death.

(c) In any case where subparagraph (a) of this article applies, the consular officer shall have the right to take steps for the protection and preservation under subparagraph (a). He shall also have the right, in any such case, to of the interests of the person whom he is entitled to represent take possession of the estate or the property unless other persons, having superior interests, have taken the necessary steps to assume possession thereof. If under the law of the receiving state, a grant or order of a court is necessary for the purpose of permitting the consular officer to exercise the rights which he is entitled to exercise pursuant to this subparagraph such rights shall be recognized by the courts and any grant or order which would have been made in favor of the person whose interests are represented by the consular officer, if he had been present and applied for it, shall be made in favor of the consular officer on his application.

(d) The consular officer shall be permitted to undertake the full administration of the estate whenever and to the same extent as a person, whose interest he represents under subparagraph (a) of this article, would have had the right to administer the estate if he had been present. If by the law of the receiving state a grant by a court is necessary, the consular officer shall have the right to apply for and to receive a grant to the same extent as the person he represents would have had, if such person had been present and applied for it. The court may, however, postpone the making of a grant of administration to the consular officer (with or without the will

annexed) 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.

3. A consular officer of the sending state may, on behalf of a national of the sending state who is not a resident of the receiving state, receive for transmission to such a person, through channels prescribed by the sending state, any money or property to which such person 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 shall not, however, be required to make such distribution through a consular officer. If a court, agency or person does make distribution through a consular officer, it may require him to furnish reasonable evidence of the receipt of the money or property by the person or persons entitled thereto. The authority vested in a consular officer by this section shall be in addition to and not in limitation of the authority vested in him by previous paragraphs of this article.

4. Whenever a consular officer shall undertake the full administration of an estate pursuant to subparagraph (d) of paragraph 2 of this article, he subjects himself in his capacity as administrator to the jurisdiction of the court making the appointment for all necessary purposes to the same extent as if he were a national of the receiving state.

5. The provisions of this article shall be subject to any laws of, or regulations issued pursuant to law by, the receiving state providing for, or relating to, war or a national emergency.

#### *Article X*

1. (a) A consular officer of the sending state shall, except as herein-after provided, have the right to exercise exclusive jurisdiction over controversies arising out of the internal order of merchant vessels of the sending state and over matters pertaining to the enforcement of discipline on board whenever any such vessels shall have entered the territorial waters of the receiving state within his consular district.

(b) A consular officer of the sending state shall have jurisdiction over issues concerning the adjustment of wages of members of the crews of vessels of the sending state which shall have entered the territorial waters of the receiving state within his consular district and the execution of contracts relating to such wages. Such jurisdiction shall not in any case, however, exclude the jurisdiction conferred on the competent authorities of the receiving state under existing or future laws.

2. Notwithstanding the provisions of paragraph 1 of this article a consular officer shall not, except as permitted by the laws of the receiving state, exercise jurisdiction in any case involving an offense committed on board a merchant vessel of the sending state, which offense would be punishable under the law of the receiving state by a sentence of imprisonment for a period of at least one year, or by penalties in excess thereof.

3. A consular officer may freely invoke the assistance of the competent authorities of the receiving state in any matter pertaining to the maintenance of internal order on board a vessel of the sending state which shall

have entered within the territorial waters of the receiving state. Upon the receipt by such authorities of the request of the consular officer the requisite assistance shall be given.

4. A consular officer, or a consular employee designated by him, may appear with the officers and crews of the vessels of the sending state before the judicial and administrative authorities of the receiving state for the purpose of observing any proceedings affecting such persons and rendering such assistance as may be permitted by the laws of the receiving state.

#### *Article XI*

1. A consular officer of the sending state shall have the right to inspect within the ports of the receiving state within his consular district, the merchant vessels of any state 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 laws of the sending state as a condition to the entry of vessels 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 rights conferred upon him by this article a consular officer shall act with all possible despatch and without unnecessary delay.

#### *Article XII*

1. All arrangements relative to the salvage of a vessel of the sending state wrecked upon the coasts of the receiving state may, unless the vessel shall have been attached by a salvor, be directed by such person as shall be authorized for such purpose by the law of the sending state and whose identity and authority shall have been made known to the authorities of the receiving state by the consular officer of the sending state within whose consular district the wrecked vessel is found, or, in the absence of any such person, by such consular officer.

2. Pending the arrival of the consular officer, who shall be informed immediately of the occurrence of the wreck, or of such other person as may be authorized to act in the premises, the authorities of the receiving state shall take all necessary measures for the protection of persons and the preservation of property. Such measures shall, however, be restricted to those necessary for the maintenance of order, the protection of the interests of the salvors and the execution of the arrangements which shall be made for the entry or exportation of the salvaged merchandise. Such merchandise is not to be subjected to any customs or customhouse charges, unless it be intended for consumption in the receiving state.

3. The intervention of the authorities of the receiving state shall not occasion any expenses except such expenses as may be caused by the operations of salvage and the preservation of the goods saved, or which would be incurred under similar circumstances by vessels of the receiving state.

4. If a wreck is found within a port, or constitutes a navigational hazard within the territorial waters of the receiving state, there shall also be observed those arrangements which may be ordered by the authorities of the receiving state with a view to avoiding any damage that might otherwise be caused by the wrecked vessel to the port facilities and to other vessels.

*Article XIII*

For the purpose of this convention the term "national" shall be deemed to include any natural person or juridical entity possessing, as the case may be, the nationality of the receiving or the sending state, and the term "person" shall be deemed to include any natural person or juridical entity.

*Article XIV*

1. The territories of the contracting states to which the provisions of this convention apply shall be understood to comprise all areas of land and water subject to the sovereignty or authority of either state, except the Panama Canal Zone.

2. The provisions of paragraph 2, Article I, do not confer upon Consular officials and employees of the United States of America those rights, privileges, exemptions, and immunities conferred to Consular officials and employees of one or more of the Republics of El Salvador, Guatemala, Honduras and Nicaragua, by virtue of Treaties and other agreements which have been entered into or may be entered into between the Republic of Costa Rica and one or more of the Republics of El Salvador, Guatemala, Honduras and Nicaragua.

. . .

**11. Treaty<sup>1</sup> between the Republic of the Philippines and the Spanish State on civil rights and consular prerogatives, signed at Manila, on 20 May 1948<sup>2</sup>**

. . .

*Article IV*

1. When the Government of each of the High Contracting Parties appoints a consular officer to exercise consular functions in the territories of the Other, it shall give notice thereof in writing to the Government of the High Contracting Party in whose territory the appointee will act, requesting his recognition as such. The Government of each of the High Contracting Parties shall provide gratuitously the necessary exequatur to any consular officer of the Other Party upon the presentation of his consular patent or commission duly signed and sealed by the Chief of State of the country appointing him.

2. It is understood that the term "Consular Officer" used in this Treaty includes only consuls-general, consuls and vice-consuls who are not honorary.

3. Upon the incapacity, absence, or death of a consular officer having no subordinate consular officer at his post, the chancellor, administrative secretary, or any other ranking employee of the consulate, whose official status as such officer or employee in the consulate has previously been made known to the Government of the High Contracting Party in whose territory the consular function is being exercised, may temporarily exercise the

<sup>1</sup> United Nations, *Treaty Series*, vol. 70, p. 144.

<sup>2</sup> Came into force on 22 December 1948, upon the exchange of the instruments of ratification at Manila.

consular functions of the incapacitated, absent or deceased consular officer, upon notification thereof by the diplomatic representative of his country to the competent local authorities who shall, if they find the substitute acceptable, issue such documents as according to local laws are requisite for the exercise of consular functions.

4. The consular officers of each High Contracting Party shall, upon their admission to the exercise of their duties, enjoy reciprocally, in the territories of the Other High Contracting Party, rights, privileges, exemptions and immunities no less favorable in any respect than those enjoyed by the consular officers of the same grade of any third country.

5. The officials of whatever class of each High Contracting Party, whether national, provincial, or municipal, with whom the consular officers of the Other Party may have official intercourse, shall accord to such consular officers the highest consideration and protection in the exercise of their functions.

6. Substitute consular officers temporarily exercising consular functions under Paragraph 3 of this Article shall, while so acting, enjoy all the rights, privileges, exemptions, immunities, consideration and protection that were granted to the substituted officer, provided they are nationals of the country which appointed them.

7. A consular officer or a diplomatic officer of either High Contracting Party, a national of the country by which he is appointed and duly commissioned or accredited, may have, in the territories of the Other High Contracting Party, the rank also of a diplomatic officer or consular officer, as the case may be, it being understood that permission for him to exercise such dual functions shall have been duly granted by the Government of the High Contracting Party in the territories of which he shall exercise his functions.

#### *Article V*

Consular officers and employees, nationals of the High Contracting Party by which they are appointed and who are not engaged in any private occupation for gain in the territories of the Other High Contracting Party where they exercise consular functions, shall be exempt from all forced billeting, whether military or otherwise; rendering service with the military, naval or air forces; the discharge of all types of administrative or police duties, and from the payment of direct taxes imposed on their persons or property by the State, Province or Municipality. They shall specifically be exempt from the payment of all taxes, national, state, provincial and municipal, on the salaries, allowances, fees or wages received by them in compensation for consular services. However, they shall be subject to the payment of taxes, charges or assessments imposed on immovable property that they may personally own or possess in the territories of the High Contracting Party in which they exercise their consular functions, as well as to the payment of taxes on the income that they may derive from property of any kind situated within such territories.

#### *Article VI*

No tax of any kind, national, state, provincial or municipal, shall be levied in the territories of either High Contracting Party on the Government of the Other High Contracting Party, or on any officer or employee of such

High Contracting Party, in respect of any land or building acquired or leased by such Other High Contracting Party and used exclusively for the conduct of official business, except assessments levied for services or local public improvements by which the premises are benefited, provided the rights of each High Contracting Party to tax the owner of property leased to the Other High Contracting Party is not hereby abridged.

#### *Article VII*

1. Movable properties, effects and objects of whatever kind, imported for official use in the consular offices and official consular residences of either High Contracting Party in the territories of the Other High Contracting Party shall be permitted entry into such territories free of all duty.

2. Consular officers of either High Contracting Party and members of their families and suites, including employees in a consulate and their families, shall be exempt from the payment of any duty in respect of the entry into the territories of the Other High Contracting Party of their baggage and all other personal property, whether preceding or accompanying them to a consular post, either upon first arrival or upon subsequent arrivals, or imported at any time while assigned to or employed at such post.

3. It is understood, however,

(a) That the exemptions provided in Paragraph 2 of this Article shall only be applicable to consular officers and members of their suites, including employees in a consulate and their families, who are nationals of the High Contracting Party by which they are appointed or employed and not engaged in any private occupation for gain within the territories of the Other High Contracting Party;

(b) That in the case of each consignment of articles imported for the personal use of consular officers or members of their families or suites, including employees in a consulate and their families, at any time during their official residence within the territories in which they exercise their official functions, a request for entry free of duty shall be made through diplomatic channels; and

(c) That nothing herein shall be construed to permit the entry into the territory of either High Contracting Party of any article the importation of which is specifically prohibited by law.

#### *Article VIII*

1. Consular officers, nationals of the High Contracting Party by which they are appointed and not engaged in any private occupation for gain within the territory of the country in which they exercise their functions, shall be exempt from arrest in such territories except when charged before a court of justice with the commission of an offense designated by local legislation as a crime and subjecting the individual guilty thereof to punishment by imprisonment.

2. In criminal cases, the attendance at court by a consular officer as witness may be demanded by the complainant, the defense or the court. The demand shall be made with all possible respect for the consular dignity and the duties of the office and, when so made, there shall be compliance on the part of the consular officer.

3. In civil cases, consular officers shall be subject to the jurisdiction of the courts in the territories of the High Contracting Party which receives them. When the testimony of a consular officer who is a national of the High Contracting Party which appoints him and who is not engaged in any private occupation for gain is considered necessary, he shall not refuse to give his testimony and it shall be taken orally or in writing at his residence or office and with due regard for his convenience without unnecessary delays. The officer should, however, voluntarily give his testimony at court whenever it is possible to do so without serious interference with his official duties.

4. Consular officers and employees in a consulate, previously acknowledged as such, shall in no case be required to testify in criminal or civil cases regarding acts performed by them in their official capacity, nor be required to produce official consular archives in court or to testify as to their contents.

#### *Article IX*

1. The consular officers of either High Contracting Party may, in the territory of the Other, place over the outer door of their respective offices and at the official residence of the principal consular officer, the flag and the coat of arms of their country, with an appropriate inscription designating the nature of the office or official residence. They may also fly their respective national flags over the cars, ships, boats or aircraft used by them in their capacity as such consular officers.

2. The places in which are kept official consular documents of whatever kind, the register, correspondence, and other official documents comprising the consular archives, shall at all times be inviolable, and the local authorities shall not, under any pretext whatsoever, invade such premises or make any examination or seizure of official consular papers or property kept therein.

3. When the consular officers are engaged in business within the territories in which they exercise their functions, their private or business papers shall be kept absolutely and entirely separate from the consular official documents which are pending action or on file with the consular archives.

4. Consular offices shall not be used as places of asylum.

#### *Article X*

1. Consular officers of either High Contracting Party shall have the right, within their respective consular districts, to apply to or address the local authorities, of any class, for the purpose of protecting their co-nationals in the enjoyment of rights accruing to them by treaties or agreements between the two countries, or otherwise. They may complain against the infraction of those rights, and if their complaint is not attended to, or if the decision of the local authorities is not considered satisfactory, they may appeal to the Government of the State in which they exercise their functions through the diplomatic agent of their country or, in default thereof, through their consul general or consul at the capital of the State.

2. The consular officers of either High Contracting Party shall, within their respective districts, have the right to interview, to communicate with and to advise co-nationals, and to make the inquiries that they deem

necessary regarding any incident affecting the interest of said co-nationals, whom they may assist in proceedings before, or in their relations with, the authorities in the territories of the Other High Contracting Party. The local authorities shall immediately inform the consular officers of the Other High Contracting Party of the detention, arrest, or imprisonment of their nationals, and the said consular officers shall, upon notification to the appropriate authorities, be permitted without delay to visit and communicate with such nationals.

3. Nationals of either High Contracting Party in the territories of the Other High Contracting Party shall have the right at all times to communicate with consular officers of their country. Notices and communications to their respective consular officers from nationals of either High Contracting Party who are under detention or arrest or in prison, or are awaiting trial in the territories of the Other High Contracting Party shall be forwarded without delay by the local authorities to such consular officers.

#### *Article XIV*

1. The consular officers of each High Contracting Party shall have the right to board or send a representative aboard ships of their own nationality after admission of the ships in port; to make inquiries from the captain and crews; to examine the log, manifests, bills of lading and other documents aboard ship; to receive statements concerning the trip, the destination and the incidents during the trip; to visa and make annotations in the manifests and logs; and to expedite all matters pertaining to the clearance of ships of their own nationality. A consular officer shall have the right to appear with the officers and crews of vessels of his country before the appropriate authorities of the country by which he has been received for the purpose of observing proceedings or of rendering assistance as an interpreter or agent.

2. The consular officers of either High Contracting Party shall have also the right to inspect within the ports of the Other and within their consular district the private vessels of any flag destined or about to clear for the ports of their country for the sole purpose of assuring themselves of the sanitary conditions and measures taken on board of such ships in order that they may be enabled thereby to execute intelligently bills of health and other documents required by the laws of their country, and to inform their government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels. They shall act in this matter with all possible dispatch and without unnecessary delay.

#### *Article XV*

1. A consular officer of either High Contracting Party shall have jurisdiction over controversies arising out of the internal order of private vessels of his country and shall alone exercise jurisdiction in situations, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessels and the persons charged with wrong-doing shall have entered the territorial waters or territories within his consular district.



2. The consular officers shall have also jurisdiction over issues concerning the adjustment of wages of the crews, the execution of contracts relating to their wages or conditions of their employment, provided the local laws permit.

3. Notwithstanding the provisions of Paragraph 1 of this Article, it is understood that when acts committed on board private vessels of the country by which the consular officer has been appointed and within the territories or the territorial waters of the High Contracting Party by which he has been received, constitute crimes according to the laws of the receiving country subjecting the persons guilty thereof to punishment by a sentence of death or of imprisonment for a period of at least one year, or where the criminal act involves a national of the country where the ship is anchored or another person not a member of the crew, the consular officer shall not exercise jurisdiction, except in so far as he is permitted to do so by the laws of the receiving country.

4. A consular officer shall have the right freely to invoke the assistance of the local police authorities in all matters pertaining to the maintenance of internal order on board vessels of his country within the territories or the territorial waters of the country by which he has been received and, upon such request, the requisite assistance shall be given promptly.

## **12. Convention<sup>1</sup> générale entre le Danemark et la France sur la sécurité sociale, signée à Paris, le 30 juin 1951<sup>2</sup>**

### *Article 3*

4. Les agents diplomatiques et consulaires de carrière, y compris les fonctionnaires appartenant au cadre des chancelleries et les travailleurs salariés ou assimilés des services administratifs officiels détachés de l'un des pays contractants dans l'autre pays, sont soumis aux dispositions en vigueur dans le pays d'où ils sont détachés.

## **13. Consular convention<sup>3</sup> between Her Majesty in respect of the United Kingdom of Great Britain and Northern Ireland and His Majesty the King of Sweden, signed at Stockholm, 14 March 1952<sup>4</sup>**

### PART I. APPLICATION AND DEFINITIONS

#### *Article 1*

This Convention applies —

(1) On the part of Her Britannic Majesty, to the United Kingdom of Great Britain and Northern Ireland, and to all territories for whose international relations Her Government in the United Kingdom are responsible;

<sup>1</sup> Nations Unies, *Recueil des Traités*, t. 151, p. 243.

<sup>2</sup> Ratifiée.

<sup>3</sup> Treaty Series. No. 70 (1954), Cmd. 9340.

<sup>4</sup> Ratifications exchanged at London, 25 August, 1952.

(2) On the part of His Majesty The King of Sweden, to the Kingdom of Sweden.

*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) The term “ territory ” means any part of the territories of the receiving state in which the whole or part of a consular officer’s district is situated and which has been notified as constituting a territorial unit for the purpose of all or some of the Articles of the Convention, in conformity with the provisions of Article 35 of the Convention;

(4) The term “ nationals ” means —

(a) In relation to Her Britannic Majesty, all citizens of the United Kingdom and colonies, all citizens of Southern Rhodesia and all British-protected persons including, where the context permits, all juridical entities duly created under the law of any territory to which the Convention applies;

(b) In relation to His Majesty The King of Sweden, all Swedish citizens including, where the context permits all, juridical entities duly created under the law of the Kingdom of Sweden;

(5) The term “ vessel ” of a High Contracting Party means, for the purpose of Part VII of the Convention, any ship or craft registered at a port in any of the territories of that High Contracting Party to which the Convention applies, and, for the purpose of the other parts of the Convention, the word “ vessel ” means any ship or craft not being a ship of war whether so registered or not;

(6) The term “ consular officer ” means any person who is granted an exequatur or other authorisation (including a provisional authorisation) to act in such capacity by the appropriate authorities of the territory; a consular officer may be a career officer (*consul missus*) or an honorary officer (*consul electus*);

(7) The term “ consular employee ” means any person, not being a consular officer, employed at a consulate for the performance of consular duties, provided that his name has been duly communicated in accordance with the provisions of Article 6 of the Convention to the appropriate authorities of the territory; the term does not, however, include drivers or any person employed solely on domestic duties at or in the upkeep of the consular premises;

(8) The term “ consular office ” means any building or part of a building which is occupied exclusively for the purposes of the official business of a consular officer;

(9) The term “ grave offence ” means, for the purpose of Articles 14 and 27 (2) of the Convention —

(a) In the case of any of the territories referred to in paragraph (1) of Article 1 of the Convention, an offence for which a sentence of imprisonment for five years or over may be awarded;

(b) In the case of the Kingdom of Sweden, an offence for which a sentence of imprisonment for four years or over may be awarded.

PART II. APPOINTMENTS AND DISTRICTS

*Article 3*

(1) The sending state may establish and maintain consulates in the territories of the receiving state 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 a 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) 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 appointment of a consular officer to a consulate. In the case of honorary consular officers who are nationals of the receiving state the latter may require that its consent to the appointment of such officers to a consulate shall be obtained in advance through the diplomatic channel.

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

(3) The exequatur or other authorisation 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 authorisation.

*Article 5*

(1) The receiving state shall upon request inform without delay its appropriate authorities 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) The receiving state may revoke the exequatur or other authorisation of a consular officer whose conduct has given serious cause for complaint.

*Article 6*

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.

*Article 7*

(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. Upon notification to the government of the territory, such acting officer may perform these duties and enjoy the benefits of the provisions of this Convention, pending the return to duty of the officer concerned or the appointment of a new consular officer.

(2) If such acting consular officer is a consular employee, he shall not be entitled by reason of such temporary assignment to any privileges in respect of taxes or duties imposed upon or by reason of importation greater than those to which he may already be entitled.

*Article 8*

The sending state may, with the permission of the receiving state, assign to the work of a consulate situated at the seat of the central government of the receiving state one or more members of its diplomatic mission accredited to that state. In this event the provisions of Article 4 shall apply as regards their consular assignment. These officers shall, in their consular capacity and with regard to the performance of consular functions, be entitled 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 recognised also as diplomatic officers by the receiving state.

PART III. LEGAL RIGHTS AND IMMUNITIES

*Article 9*

(1) The sending state may, in accordance with such conditions as may be prescribed by the law of the territory, acquire, hold and occupy, under any form of tenure which may exist under the laws of the territory, 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 situated in the territory and required by the sending state for the purposes of consular premises, including the official residence of a career consular officer. 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, provided that the necessary formalities have been complied with.

(2) The sending state shall have the right to erect, for the purposes referred to in paragraph (1) of this Article, buildings and appurtenances on land which it has so acquired.

(3) It is understood that the sending state shall not be exempt from compliance with any building or town planning regulations or restrictions applicable to the area in which the land, buildings, parts of buildings and appurtenances referred to in paragraphs (1) and (2) of this Article are situated.

*Article 10*

(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 official language 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 consulate.

(2) The flag of the sending state and its consular flag may be flown at the consulate and also, on suitable occasions, at the consular officer's residence. In addition, a consular officer may place the coat-of-arms or device and fly the flag of the sending state and its consular flag on the vehicles, vessels and aircraft which he employs in the exercise of his duties.

(3) A consular office shall not be entered by the police or other authorities of the territory except with the consent of the consular officer in charge, or, if such consent cannot be obtained, pursuant to appropriate writ or process and with the consent of the Secretary of State for Foreign Affairs in the case of the territories referred to in paragraph (1) of Article 1, or of the Minister for Foreign Affairs in the case of the Kingdom of Sweden. The consent of such consular officer shall be assumed in the event of fire or other disaster or if the authorities of the territory have reasonable 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 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.

(4) A consulate shall not be used to afford asylum to fugitives from justice. If a consular officer shall refuse to surrender a fugitive from justice on the lawful demand of the authorities of the territory, these authorities, subject to the provisions of paragraph (3) of this Article, in regard to the consular office, may, if necessary, enter to apprehend the fugitive.

(5) Any entry into or search of a consular office pursuant to paragraphs (3) and (4) of this Article shall be conducted with due regard to the inviolability of the consular archives, as recognised in paragraph (1) of Article 12.

(6) 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 11*

(1) Land, buildings, parts of buildings and appurtenances, including the furniture and equipment thereof, held or occupied exclusively for the purposes referred to in paragraph (1) of Article 9, together with the vehicles, vessels and aircraft of a consulate, shall not be subject to military requisitions or billeting. Such land, buildings, parts of buildings and appurtenances shall not be immune from expropriation or seizure for purposes of national defence or public utility in accordance with the laws 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, in either case, that he complies with the conditions specified in paragraph (5) of this Article, his residence, furniture and other household articles, and all vehicles, 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 defence or public utility in accordance with the laws of the territory.

(3) Further, due compensation for expropriation or seizure, payable at the official selling 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, in respect of all proprietary interests in a consulate (including all land, buildings, parts of buildings and appurtenances, held or occupied exclusively for the purposes referred to in paragraph (1) of Article 9) owned by the sending state, or vested in a consular officer or employee or other natural or juridical person acting on behalf of the sending state, shall be paid not later than three months from the date on which the amount of compensation for expropriation or seizure has been finally fixed.

(4) A consular officer, provided that he is not a national of the receiving state, and also a consular employee, provided that he complies with the conditions specified 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) and (4) of this Article are that the person concerned shall —

(a) Be a national of the sending state and not possess the nationality of the receiving state; and

(b) Not be engaged in any private occupation for gain in the territory; and

(c) Not have been ordinarily resident in the territory at the time of his appointment to the consulate.

#### *Article 12*

(1) The archives and all other official documents and papers of 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.

(2) Such archives and official documents and papers 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 and official papers when a consular office is situated on the premises of a diplomatic mission.

(3) — (a) A career consular officer shall be entitled to communicate with his government, with his superintending diplomatic mission or with other consulates of the sending state which are situated in the same territory by post, telegraph, telephone and other public services, and may send and receive official correspondence by sealed consular pouches and bags which shall contain nothing but such official correspondence and may, in both cases, use secret language. When, however, either High Contracting Party

is at war, or is confronted with imminent risk of war, such right of communication and correspondence with the superintending diplomatic mission, if the latter is situated outside the territories of the receiving state, may be restricted. A career consular officer may, in addition, similarly communicate and correspond with other diplomatic missions and consulates of the sending state or with the authorities of other territories of that state, provided that, when either High Contracting Party is at war, or is confronted with imminent risk of war, this extended right may be restricted.

(b) In the case of honorary consular officers, the application of the provisions of sub-paragraph (a) of this paragraph will be regulated by special arrangements to be made from time to time between the High Contracting Parties.

(4) The official consular correspondence referred to in paragraph (3) of this Article shall be inviolable and the authorities of the territory shall not examine or detain it. The pouches and bags referred to in the said paragraph shall be entitled to receive the same treatment as is accorded by the receiving state to the diplomatic bags of the sending state.

(5) A consular officer or employee shall be entitled to refuse a request from the courts or authorities of the territory to produce any documents from his archives or other official papers 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 in charge, it is possible to do so without prejudice to the interests of the sending state.

(6) A consular officer shall also be entitled to decline to give evidence as an expert witness with regard to the laws of the sending state.

#### *Article 13*

(1) 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 international law, unless the sending state requests or assents to the proceedings through its diplomatic representative.

(2) It is understood that the provisions of paragraph (1) 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 (5) of Article 12 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 for in paragraphs (5) and (6) of Article 12. The authority or court requiring his testimony shall take all reasonable steps to avoid interference with the performance of his official duties. In the case of a consular officer who is not a national of the receiving state, the authority or court shall, wherever permissible and possible, arrange for the taking of such testimony, orally or in writing, at his office or residence.

(4) All motor vehicles, vessels and aircraft owned by the sending state and used for the purposes of a consulate or for the purposes of a consular officer or employee, and likewise all motor vehicles, vessels and aircraft

owned by a consular officer or employee shall, in conformity with the law of the territory, be insured by policies against third party risks. Any action by a third party in respect of any such risk shall be deemed to be an action involving liability as set out in paragraph (2) of this Article, and the provisions of paragraph (5) of Article 12 shall not entitle a consular officer or employee to refuse to produce any document or to give evidence in connexion with such an action.

(5) While he continues to hold his exequatur or other authorisation, a career consular officer, together with his wife and minor children residing with him, shall be exempt from the requirements of the laws of the territory with regard to the registration of foreigners and permission to reside, and shall not be subject to deportation.

#### *Article 14*

Except at the request or with the consent of the sending state a career consular officer shall not be subjected in any territory of the receiving state to detention in custody pending trial, in respect of acts performed otherwise than in his official capacity, unless he is accused of a grave offence as defined in Article 2 (9) of this Convention.

#### PART IV. FINANCIAL PRIVILEGES

#### *Article 15*

The sending state or any natural or juridical persons acting on its behalf shall, in the territory, be exempt from all taxes or other similar charges of any kind (national, state, provincial, municipal or other) in respect of —

(a) The ownership or occupation of land, buildings, parts of buildings or appurtenances used exclusively for the purposes referred to in paragraph (1) of Article 9 of this Convention, except taxes or other assessments levied for services or for local public improvements by which, and to the extent that, the said premises are benefited;

(b) Transactions or instruments relating to the acquisition of immovable property for the said purposes;

(c) The ownership, possession or use of movable property for consular purposes.

#### *Article 16*

(1) (a) 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 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 or 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, salary, wages or allowances received as compensation for his consular services by a consular officer.

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

(4) A career consular officer or consular employee shall, in addition, 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, other than taxes or duties imposed upon or by reason of importation into the territory, exemption from which is dealt with exclusively in Article 17, provided that such officer or employee is —

(a) Not a national of the receiving state; and

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

(c) A permanent employee of the sending state, or if not a permanent employee thereof, was not ordinarily resident in the territory at the time of his appointment to the consulate.

(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. If, however, a consular officer or employee 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 ownership of capital invested in any commercial enterprise within the territory, or on profits arising from the sale of any such interest or from the sale of immovable property situated within the territory;

(iv) Taxes imposed or collected within the territory on the passing of property on death, whether the consular officer or employee is the person who dies or the person to whom the property passes on death;

(v) 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 connexion therewith;

(vi) Excise, consumption or other similar taxes, which shall not be deemed to include any such tax imposed or collected on the ownership, use or operation of vehicles, vessels or aircraft, or of any wireless or television

set or on articles imported into the territory in accordance with the provisions of Article 17.

#### *Article 17*

(1) All furniture, equipment, supplies, building materials and other articles, including vehicles, vessels and aircraft, intended for the official purposes of a consulate 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, vessels and aircraft, imported into the territory by a career consular officer, provided that he fulfils the conditions specified in paragraph (4) of Article 16, exclusively for his personal use or the use of members of his family forming part of his household, shall be exempt from all taxes or duties (national, 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 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 or re-exportation 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 to, *inter alia*, 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 and subsequently re-exported or destroyed shall not be regarded as excluded from the exemption provided in this Article;

(c) The receiving state may determine that the exemption provided in 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 so as to permit the entry into the territory of any article the importation of which is specifically prohibited by law.

#### PART V. GENERAL CONSULAR FUNCTIONS

#### *Article 18*

(1) A consular officer may, within his district —

(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 relation with the authorities of the territory, arrange for legal assistance for him, where necessary, and act as interpreter on his behalf, or appoint an interpreter so to act, before the said authorities, at their request or with their consent.

(2) For the purpose 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 Foreign Office or the Ministry for Foreign Affairs, as the case may be, except in the absence of any diplomatic representative of the sending state. When any such representations are made in writing, a consular officer may be required by the authority or department concerned to attach a translation into the official language of the territory.

(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 19*

(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 awaiting trial or is otherwise detained in custody within his district.

(2) 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 for the purpose of any proceedings or interrogations or who is entitled to appeal under the ordinary rules as to the time within which an appeal may be made. Any communication from such a national to the consular officer shall be forwarded without delay by the authorities of the territory.

(3) Without prejudice to the provisions of paragraph (2) of this Article, when a national of the sending state is detained in custody in pursuance of his sentence, the consular officer within whose district he is detained shall, upon notification to the appropriate authority, have the right to visit him. Any such visit shall be conducted in accordance with the regulations in force in the institution in which he is detained, it being understood, however, that such regulations shall permit reasonable access to and opportunity of conversing with such national.

#### *Article 20*

A consular officer may, within his district, further the commercial, artistic, scientific, professional and educational interests of the sending state.

#### *Article 21*

A consular officer may, within his district —

(1) (a) Receive such declarations 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 laws of the territory, provided that at least one of the parties is a national of the sending state, but it is understood that such consular registration of a birth or death or the recording by a consular officer of such a marriage in no way exempts a private person from any obligation under the laws of the territory with regard to the notification and registration of births, deaths or marriages with the authorities of the territory;

(d) Issue passports and travel documents to nationals of the sending state and grant visas and other appropriate documents to persons seeking entry into the sending state;

(e) Issue, with regard to goods, certificates of origin and interest for use in the sending state;

(f) Serve 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) The provisions of paragraph (1) of this Article shall apply whatever the signatures or documents, translate documents and perform other notarial acts in connexion 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, such oath or affirmation may be administered. A consular officer may also perform these functions in connexion with documents required by a national of the sending state for use elsewhere than in the sending state, but it is understood that this provision involves no obligation on the authorities of the receiving state to recognise the validity of such notarial and other acts, referred to in this paragraph, performed by a consular officer in connexion with documents required under the laws of the receiving state.

#### PART VI. ESTATES AND TRANSFERS OF PROPERTY

##### *Article 22*

(1) In any case where a deceased person leaves property in the territory and a legal or equitable interest in such property (for instance, as executor or beneficiary under a will or in cases 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, his 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 a power of attorney from the national which has ceased to be operative as from the date when the consular officer is informed that such national is otherwise legally represented or, if a grant has already been made to the consular officer in accordance with the provisions of paragraph (3) of this Article, as from the date when a further grant is made to that national on his own application or on the application of his legal representative.

(2) The provisions of paragraph (1) of this Article shall 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 to the same extent as if he were the duly appointed attorney of the person whose interests he represents, unless another person,

having equal or superior rights, 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 duly appointed attorney of the person whose interests are represented by the consular officer 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 shall, if satisfied as to such necessity, make a grant or an order to the consular officer provisionally, limited to the protecting and preserving of the estate, until such time as a further grant of representation is made.

(4) (a) Subject to sub-paragraphs (b) and (c) of this paragraph, the consular officer shall have the right to full administration of the estate to the same extent as if he were the duly appointed attorney of the person whose interests he represents. If under 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 duly appointed attorney of the person whose interests he represents.

(b) The court may, if it thinks fit, postpone the making of a grant to the consular officer for such time as it deems 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 exercise any discretion which it possesses to order the consular officer to furnish reasonable evidence of the receipt of the assets by the persons entitled to them by law or to repay or return those assets to the competent authority or person 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) A consular officer shall, in addition, be entitled within his district to receive and distribute an estate of small value of a deceased national of the sending state without first obtaining a grant of representation, to the extent that, and subject to the conditions under which, this may be permitted under 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 local authorities (administrative or judicial) 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,

they shall inform the consular officer to this effect.

*Article 23*

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 shall not be obliged to transmit such money or property through the consular officer, and the consular officer shall not be 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 of his being unable to furnish such evidence.

*Article 24*

Money or other property may be paid, delivered or transferred to a consular officer pursuant to the provisions of Articles 22 and 23 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 VII. SHIPPING

*Article 25*

(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 26 without interference on the part of the authorities of the territory. For the purpose of performing any of these duties, a consular officer, accompanied, if he so desires, by consular employees on his staff, may proceed personally on board the vessel after she has received *pratique*. In connexion with these duties the master and appropriate members of the crew may proceed to the consulate, unless the authorities of the territory shall object on the ground that it would not be practicable for the master and members of the crew concerned to rejoin the vessel before her departure. In the event of such objection being made the authorities of the territory shall immediately inform the appropriate consular officer.

(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 26*

(1) The consular officer may question the master and members of the crew, 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 the vessel.

(2) The consular officer or a consular employee may appear with the master or members of the crew 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) Without prejudice to any right which the judicial authorities of the territory may possess to take jurisdiction in accordance with the provisions of Article 27 (1), the consular officer may decide disputes between the master and members of the crew, including disputes as to wages 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 treatment in a hospital and the repatriation of the master or members of the crew of the vessel.

(6) The consular officer may receive, draw up or execute any declaration, transfer or other document prescribed by the law of the sending state in connexion with —

- (a) The transfer to or the removal from the register of the sending state of any vessel; or
  - (b) The transfer from one owner to another of any vessel on that register;
- or
- (c) The registration of any mortgage or charge on such a vessel.

*Article 27*

(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 relating to the internal management of the vessel. The judicial authorities of the territory shall not entertain any proceedings with regard to disputes as to wages and contracts of service between the master and members of the crew without giving notice to the appropriate consular officer and shall refuse to entertain the proceedings, if the consular officer objects. The administrative and judicial authorities shall not interfere with the detention in custody on the vessel of a seaman for disciplinary offences, provided that such detention is lawful under the law of the sending state and is not accompanied by unjustifiable severity or inhumanity.

(2) Without prejudice to their right to take cognisance of offences committed on board any vessel in the ports or in the territorial waters of the territory and cognisable under the local law or to enforce local laws applicable to such vessel or persons and property on board, the High Contracting Parties affirm their approval of the international practice under which the

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 the vessel unless for the preservation of peace and order or in the interests of public health or safety; or

(b) Institute prosecutions in respect of offences committed on board the vessel, unless —

(i) They involve the tranquillity or safety of the port, or the law of the territory regarding public health, immigration, the safety of life at sea, customs or any similar matter; or

(ii) They are committed by or against persons other than the master or members of the crew or by or against persons possessing the nationality of the receiving state; or

(iii) They constitute grave offences as defined in Article 2 (9) of this Convention.

(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 enquiry on board the vessel, 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, however, apply to routine examinations by the authorities of the territory with regard to customs, health and the admission of foreigners, or to detention of the vessel or of any portion of her cargo arising out of civil or commercial proceedings in the courts of the territory.

#### *Article 28*

(1) Provided that the master of the vessel consents, the consular officer may 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 the competent authorities of the sending state with such information with regard to sanitary or other matters as these authorities may require.

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

#### *Article 29*

(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 pre-



vention 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 order any measures to be taken which they consider necessary with a view to avoiding any damage that might otherwise be caused by the vessel to the port facilities or to other vessels.

(4) If neither the owner of the wrecked vessel, his agent (or the underwriters concerned) nor the master is in a position to make arrangements, the consular officer shall be deemed to be authorised 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 taxes or 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 brought ashore for use or consumption in the territory. The authorities of the territory, however, if they think fit, may require security for the protection of the revenue in relation to such goods.

(6) No charge (other than taxes or duties, leviable in accordance with paragraph (5) of this Article) shall be levied by the authorities of the territory in connexion with the wrecked vessel, her cargo or other property on board, other than charges of the same kind and amount as would be levied in similar circumstances upon or in connexion with vessels of the receiving state.

#### *Article 30*

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 authorised 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, his agent, the underwriters nor the master of the vessel is in a position to make these arrangements.

#### *Article 31*

(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 the appropriate consular officer of the sending state 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 any case where the value of the 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 sterling, where the competent department is an authority of Her Britannic Majesty, or 1,500 kronor, where the competent department is an authority of His Majesty The King of Sweden, the competent department shall hand over such wages, effects and other property of the deceased master or seaman to the consular officer, provided that, if the value thereof exceed £50 sterling or 750 kronor, as the case may be, the competent department may first require to be satisfied that there is a person entitled to succeed to the property of the deceased, otherwise than as a creditor, and that such person is resident in the sending state. However, the competent department shall 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 Her Britannic Majesty the competent department shall be the Ministry of Transport of the United Kingdom. In the case of His Majesty The King of Sweden the competent department shall be the Ministry for Foreign Affairs.

(3) In any case where the competent department does not hand over to the consular officer the wages and effects and other property under its control 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 the 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 under its control 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 VIII. GENERAL PROVISIONS RELATING TO CONSULAR FUNCTIONS

##### *Article 32*

(1) The provisions of Articles 18 to 31 relating to the functions which a consular officer may perform are not exhaustive. A consular officer shall also be permitted to perform other functions, provided that —

(a) They are in accordance with international law or practice relating to consular officers, as recognised in the territory; or

(b) They involve no conflict with the laws of the territory and the authorities of the territory raise no objection to them.

(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.

*Article 33*

A consular officer may, within his district, levy the fees prescribed by the sending state for the performance of consular services.

## PART IX. FINAL PROVISIONS

*Article 34*

Any dispute which may arise between the High Contracting Parties as to the proper interpretation or application of any of the provisions of this Convention shall, at the request of either of them, be referred to the International Court of Justice, unless in any particular case the parties agree to submit the dispute to some other tribunal or to dispose of it by some other form of procedure.

*Article 35*

(1) Each High Contracting Party shall, before the entry into force of this Convention, inform the other by notification in writing through the diplomatic channel which parts of his territories are to be regarded as territorial units for the purpose of all or some of the Articles of the Convention, and, in the latter case, for the purpose of which Articles they are to be so regarded.

(2) Either High Contracting Party may, by a further notification or notifications in writing, inform the other of his decision to modify the arrangements previously notified and each such notification shall take effect six months after the date of its receipt by the latter High Contracting Party.

*Article 36*

Upon the entry into force of this Convention the provisions contained in the Exchange of Notes between Sweden and Norway and the United Kingdom of the 30th July and the 4th August, 1852, respecting the Surrender, on conditions of reciprocity, of Seamen Deserters, from the Vessels of each country in the ports of the other<sup>1</sup> and, in so far as it refers to merchant seamen, the Arrangement embodied in Notes exchanged on the 20th July and the 10th November, 1868, between Sweden and Norway and the United Kingdom relative to the disposal of the Estates of Deceased Seamen,<sup>2</sup> together with the Agreement embodied in Notes exchanged on the 10th September and the 5th October, 1907, between Sweden and the United Kingdom respecting the Estates of Deceased Seamen,<sup>3</sup> shall be terminated in respect of the territories to which the Convention applies.

## FIRST PROTOCOL OF SIGNATURE

At the time of signing the Consular Convention of this day's date on behalf of Her Majesty The Queen of Great Britain, Ireland and the British Dominions beyond the Seas, in respect of the United Kingdom of Great Britain and Northern Ireland, and of His Majesty The King of Sweden, in

<sup>1</sup> "British and Foreign State Papers," Vol. 63, page 1051.

<sup>2</sup> "British and Foreign State Papers," Vol. 59, page 165, and Vol. 63, page 1077.

<sup>3</sup> "Treaty Series, No. 37 (1907)," Cd. 3779.

respect of the Kingdom of Sweden, the undersigned, being duly authorised thereto, declare as follows —

The High Contracting Parties wish to put on record that in their view the following principles are applicable to consulates and consular officers under the general law of nations in the event of war or of the rupture of diplomatic relations:

(1) In the event of war or of the rupture of relations between two states, either state shall be entitled to demand the closure of all or any of the consulates of the other state in its territory. It shall also be entitled to close all or any such consulates of the latter state as are situated in other countries which come under its military occupation;

(2) In the event of the closure of all or any of the consulates of one state in the territory of another state or in territory which comes under the military occupation of the latter state, the consular officers (including honorary consular officers) and consular employees concerned of the former state who are nationals of the former state and are not nationals of the latter state, provided that their names have been duly notified through the appropriate channel, together with all members of their families, shall be given reasonable time and proper facilities to leave the territory for their own country. They shall be afforded considerate treatment and protection until the moment of their departure, which shall take place within a reasonable period, and they shall be permitted to take with them their archives and official papers together with their furniture and personal effects, or, if they prefer, to deposit them in safe custody in the territory. In either case their archives and official papers shall be inviolable and all practical steps shall be taken to safeguard their furniture and personal effects.

#### SECOND PROTOCOL OF SIGNATURE

At the time of signing the Consular Convention of this day's date on behalf of Her Majesty The Queen of Great Britain, Ireland and the British Dominions beyond the Seas, in respect of the United Kingdom of Great Britain and Northern Ireland, and of His Majesty The King of Sweden, in respect of the Kingdom of Sweden, the undersigned, being duly authorised thereto, declare as follows —

The High Contracting Parties have agreed that the provisions of Article 14 of the Convention shall not come into operation until such time as each High Contracting Party has given notice to this effect to the other.

#### THIRD PROTOCOL OF SIGNATURE

At the time of signing the Consular Convention of this day's date on behalf of Her Majesty The Queen of Great Britain, Ireland and the British Dominions beyond the Seas, in respect of the United Kingdom of Great Britain and Northern Ireland, and of His Majesty The King of Sweden, in respect of the Kingdom of Sweden, the undersigned, being duly authorised thereto, declare as follows —

The High Contracting Parties wish to place on record that, in their view, it is within the discretion of any state not to recognise the right of a consular officer of another state to act on behalf of, or otherwise concern himself with, any national of the latter state who has become a political refugee.

## EXCHANGES OF NOTES

## No. 1A

*The Swedish Minister for Foreign Affairs to Her Majesty's Ambassador at Stockholm*

*Stockholm,  
March 14, 1952.*

M. l'Ambassadeur,

With reference to the Consular Convention of to-day's date, I have the honour to inform your Excellency that the consular district of the Consul-General for Sweden in London includes the United Kingdom of Great Britain and Northern Ireland together with the Channel Islands and the Isle of Man but that Swedish consular officers serving in the same area under his superintendence are not at present assigned separate districts.

In these circumstances, the Swedish Government propose that, for the purpose of the application of the Convention, unless and until other arrangements are made, the term "consular officer", when used in relation to Swedish consular officers serving in the United Kingdom, the Channel Islands or the Isle of Man, shall, where appropriate, be deemed to denote either the Consul-General for Sweden in London or the nearest Swedish consular officer.

I shall be grateful if your Excellency will confirm that the foregoing proposal is acceptable to Her Majesty's Government in the United Kingdom.

Accept, &c.

ÖSTEN UNDÉN.

## No. 1B

*Her Majesty's Ambassador at Stockholm to the Swedish Minister for Foreign Affairs*

*British Embassy,  
Stockholm, March 14, 1952.*

M. le Ministre,

I have the honour to acknowledge your Excellency's note of to-day's date relating to the Consular Convention, which reads as follows: —

[As in No. 1A]

I have the honour to confirm that this proposal of the Swedish Government regarding the interpretation of the term "consular officer" is acceptable to Her Majesty's Government in the United Kingdom.

I have, &c.

R. B. STEVENS.

## No. 2A

*British Embassy,  
Stockholm, March 14, 1952.*

M. le Ministre,

I have the honour to make the following communication to your Excellency in order to place on record the understanding of Her Majesty's Government in the United Kingdom as to the agreement that has been

reached regarding the application of Articles 9, 15, 16 and 17 of the Consular Convention of this day's date.

2. With regard to Article 9, it is understood —

(a) That the provisions of paragraph (1) shall not apply to the Island of Jersey or to any territory of Her Britannic Majesty where under the laws at present in force the acquisition of land in full ownership is restricted to the indigenous inhabitants of the territory in question, unless and until Her Britannic Majesty in respect of the United Kingdom of Great Britain and Northern Ireland shall have caused His Majesty The King of Sweden to be notified that the law of the Island of Jersey or of any such territory, as the case may be, has been amended to permit of effect being given to the said provisions;

(b) That it shall be within the discretion of either High Contracting Party to take steps from time to time to suspend or modify the application of paragraph (1) in so far as concerns particular premises or premises in particular areas.

3. With regard to Article 15, taking into consideration the circumstance that no distinction is drawn between the beneficial and the non-beneficial elements of the Swedish Real Property Tax (*fastighetsskatt*), it is understood, for the purpose of the application of paragraph (a) of that Article, that, pending further notice, Her Britannic Majesty's consulates situated in the Kingdom of Sweden shall be accorded, in this matter, the same treatment as is at present enjoyed by Her Britannic Majesty's Embassy in Stockholm.

4. With regard to Article 16, it is understood that the exemption from taxation imposed or collected in the territory by the receiving state, accorded under the provisions of paragraph (4) of that Article, shall not apply to employees serving at a consular post which is in the charge of an honorary consular officer.

5. With regard to Article 17, it is understood that, notwithstanding the provisions of sub-paragraph (c) of paragraph (3) of that Article, the regulations at present in force relating to the importation into the United Kingdom by foreign consular officers of motor vehicles manufactured therein permit any Swedish consular officer, who fulfils the conditions specified in paragraph (4) of Article 16, to import, in connexion with his first installation, such a motor vehicle free of customs duties or purchase tax provided that it was in his possession and use prior to taking up his appointment in the United Kingdom and upon production of a certificate to this effect.

6. If the contents of paragraphs 2 to 5 above are in accordance with the understanding of the Swedish Government, I have the honour to suggest that this note and your Excellency's reply thereto shall be regarded as constituting the agreement reached between our respective Governments in relation to the matters in question.

I have, &c.

R. B. STEVENS.

## No. 2B

*The Swedish Minister for Foreign Affairs to Her Majesty's Ambassador at Stockholm*  
*Stockholm,*  
*March 14, 1952.*

M. l'Ambassadeur,

I have the honour to acknowledge receipt of your Excellency's note of to-day's date regarding the application of certain Articles of the Consular Convention.

Paragraphs 2 to 5 of your note read as follows:

[See No. 2A.]

I have the honour to inform your Excellency that the contents of the paragraphs of your note, quoted above, being acceptable to my Government, it is agreed that your Excellency's note and this reply shall be regarded as constituting the agreement reached between our respective Governments in relation to the matters in question.

Accept, &c.

ÖSTEN UNDÉN.

## No. 3A

*Her Majesty's Ambassador at Stockholm to the Swedish Minister for Foreign Affairs*  
*British Embassy,*  
*Stockholm, August 21, 1952.*

Your Excellency,

I have the honour to refer to the Consular Convention between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Sweden, signed at Stockholm on the 14th March, 1952, Article 35 (1) of which reads as follows:

" Each High Contracting Party shall, before the entry into force of this Convention, inform the other by notification in writing through the diplomatic channel which parts of his territories are to be regarded as territorial units for the purpose of all or some of the Articles of the Convention, and, in the latter case, for the purpose of which Articles they are to be so regarded."

In respect of the territories referred to in Article 1 (1) of the Convention, and upon instructions from Her Majesty's Principal Secretary of State for Foreign Affairs, I hereby notify your Excellency, for the information of the Swedish Government, that, for the purposes of the Convention, the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man are together to be regarded as a single territory and that all other territories for whose international relations Her Majesty's Government in the United Kingdom are responsible are each to be regarded as a separate territory; provided that, for the purposes of Article 16, the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man are each to be regarded as a separate territory and that, for the purposes of Article 22, England and Wales, Scotland, Northern Ireland, the Channel Islands and the Isle of Man are each to be regarded as a separate territory.

I avail, &c.

R. B. STEVENS.

*The Swedish Minister for Foreign Affairs to Her Majesty's Ambassador at Stockholm*

*Stockholm, August 21, 1952.*

M. l'Ambassadeur,

I have the honour to refer to the Consular Convention between the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland, signed in Stockholm on 14th March, 1952, article 35 (1) of which reads:

“ Each High Contracting Party shall, before the entry into force of this Convention, inform the other by notification in writing through the diplomatic channel which parts of his territories are to be regarded as territorial units for the purpose of all or some of the Articles of the Convention, and, in the latter case, for the purpose of which Articles they are to be so regarded.”

I have the honour to state that the Kingdom of Sweden is to be regarded as one territorial unit so far as all articles of this Convention are concerned.

Accept, &c.

ÖSTEN UNDÉN.

**14. Agreement<sup>1</sup> between the Kingdom of Denmark and the Federal Republic of Germany concerning social security, signed at Copenhagen, on 14 August 1953<sup>2</sup>**

Article 4.

6. The diplomatic and consular officers *de carrière* of the two Contracting States and persons in their personal employ shall be subject to the provisions of the Contracting State to which they belong, provided that persons in such personal employ may within six weeks of the coming into force of this Agreement or, where the employment begins after that date, within six weeks of beginning their employment, request to be insured under the provisions of the State in which they are employed.

<sup>1</sup> United Nations, *Treaty Series*, vol. 202, p. 3.

<sup>2</sup> Ratified on 28 September 1954.



**Annex to the First Part**  
**NATIONAL LEGISLATION**

**Sudan**<sup>1</sup>

(a) DIPLOMATIC IMMUNITIES AND PRIVILEGES ACT, 1956

2. The Council of Ministers may by order:

(1) Provide that a diplomatic mission of a foreign sovereign power or an international organization shall, to such extent as may be specified in the Order, have all or any one or more of the immunities and privileges set out in part I of the Schedule to this Act;

(2) Confer upon any envoy of a foreign sovereign power accredited to the Republic of the Sudan, and upon such number of officers of an international organization, being the holders of such high offices in the organization as may be specified in the Order, and upon such persons employed on missions on behalf of any international organization as may be so specified, to such extent as may be so specified, all or any one or more of the immunities and privileges set out in part II of the Schedule to this Act;

(3) Confer upon such other classes of officers and servants of a diplomatic mission or of an international organization as may be specified, all or any one or more of the immunities and privileges set out in part III of the Schedule to this Act: Provided that no such immunities or privileges shall be conferred upon any Sudanese or any person domiciled in the Sudan;

(4) Where immunities and privileges have been conferred upon any person under subsection (2) of this Section, all or any of such immunities and privileges may be conferred upon that person's wife or husband and children under the age of twenty-one.

*Alteration or Revocation of Order*

3. Any Order by the Council of Ministers under Section 2 of this Act may be varied or revoked by a subsequent Order made in like manner.

*Publication of Order*

4. Every Order made under Section 2 of this Act and every subsequent Order made under Section 3 shall be published in the Gazette.

*Power to make Regulations*

5. The Minister of Foreign Affairs may, with the approval of the Council of Ministers, make regulations for the purpose of giving effect to the provisions and purposes of this Act.

<sup>1</sup> The text of enactments reproduced under the Sudan have been provided by the Minister of Foreign Affairs of the Sudan.

## SCHEDULE

## PART I

*Immunities and Privileges of Foreign Diplomatic Missions and International Organizations*

1. Immunity from suit and legal process.
2. Inviolability of official archives and premises occupied as offices.
3. Exemption or relief from taxes and rates.
4. Exemption from customs duties on the importation of goods directly imported for official use.
5. Exemption from prohibitions and restrictions on importation or exportation in the case of goods directly imported or exported for official use.
6. The right to avail itself, for telegraphic communications sent by it and containing only matters intended for publication by the press or for broadcasting, of any reduced rates applicable for the corresponding service in the case of press telegrams.

## PART II

*Immunities and Privileges of Accredited Envoys of Foreign Sovereign and of High Officers of International Organizations*

1. Immunity from suit and legal process.
2. Inviolability of property and residence.
3. Exemption or relief from taxes and customs duties.

## PART III

*Immunities and Privileges of Other Officers and Servants of Foreign Diplomatic Missions & International Organizations*

1. Immunity from suit and legal process in respect of things done or omitted to be done in the course of performance of official duties.
2. Exemption or relief from taxes and customs duties.

*Diplomatic Immunities and Privileges Bill  
Explanatory Note*

The emergence of the Sudan amongst the Family of Nations as an independent sovereign state has given rise to the necessity of exchange of diplomatic envoys with other states. These envoys constitute the channel through which all important official intercourse with other states flows.

According to established principles of customary international law certain immunities and privileges are conferred upon these envoys.

Moreover, the constitutions of various international organizations set up since the Second World War contain provisions claiming and regulating similar immunities.

The purpose of the Bill is to make the necessary provisions in the law to give effect to these requirements of the international law.

Although there is a general agreement amongst states regarding the fundamental immunities and privileges which a state should accord to the envoys accredited to it by another state (e.g., the inviolability of the person

and residence of a diplomatic), there is by no means a unanimity amongst states regarding the details and exact extent of these rights.

The underlying principles of international law, however, are based upon reciprocity. This is the reason why the maximum rights recognised by international law have been comprehended in a Schedule and powers given to the Council of Ministers to confer by order any of these rights upon the envoy of any specific country. This would enable the Council of Ministers to restrict such immunities and privileges to the extent enjoyed by the envoys of the Sudan in the respective states.

*Explanatory Note*

Experience has shown that the Diplomatic Immunities and Privileges Act, 1956, does not cover some of the requirements under International Law.

First the Sudan should be able to grant any immunity or privilege to foreign missions and their heads and personnel, which may be granted by foreign countries to the Sudanese missions and their heads and personnel. If not, the International Rule of Reciprocity may prevent the Sudan from enjoying, for its diplomatic representation abroad, the same rights as are accorded to other sovereign nations.

Secondly, the Sudan is in some cases unable under the existing Law to comply with some of the requirements of some International organizations of which the Sudan is to become a member, or is already a member e.g., The International Monetary Fund and the International Bank for Reconstruction and Development, and to the World Health Organization.

In order to increase the powers of the Council of Ministers as to both categories of requirements, an Amendment of the Diplomatic Immunities and Privileges Act is necessary. In view of the urgent necessity to comply with the above—mentioned needs under International Law it is proposed to make the Amendment by a Provisional Order, a draft of which is submitted herewith.

(b) DIPLOMATIC IMMUNITIES AND PRIVILEGES (AMENDMENT) ACT, 1956

2. (1) In Section 2 of the Diplomatic Immunities and Privileges Act, 1956, after subsection 3 the following new subsection shall be inserted namely:

“4. Grant any other immunity or privilege in accordance with the principle of reciprocity as to diplomatic missions, envoys and other officers and servants, or in accordance with any treaty or other international agreement, having effect in the Sudan, as to International Organizations and their officers.”

(2) The existing subsection (4) shall be re-numbered as Section 2A, and the words and the figure “subsection (2) of this Section” shall be omitted, and the words and figures “subsections (2) and (4) of Section 2” substituted therefor.

(c) DIPLOMATIC IMMUNITIES AND PRIVILEGES ORDER 1956,

*Diplomatic Immunity*

2. Diplomatic immunity is conferred on the following as specified in each case:

(1) *Seat of a Mission or an International Organization*

Immunity from suit and legal process, and inviolability of official archives and premises occupied as offices.

(2) *Accredited Envoys of Foreign Sovereign Powers and High Officers of International Organizations*

Personal immunity of the official, his wife (or husband) and children under the age of twenty-one years from suit and legal process, and inviolability of property and residence.

(3) *Other Officers and Servants of Foreign Diplomatic Missions and International Organizations*

Immunity of the official from suit and legal process in respect of things done or omitted to be done in the course of performance of official duties.

No such immunity shall be deemed to have been conferred upon any Sudanese or any person domiciled in the Sudan.

*Privileges*

3. (A) Exemption from customs duties is accorded as follows:

(1) *Foreign Diplomatic Missions and International Organizations*

(a) All goods imported directly for official use.

(b) Any one or more of the goods shown in the Schedule hereto purchased locally for official use.

(2) *Accredited Envoys of Foreign Sovereign Powers and High Officers of International Organizations. viz :*

(1) Heads of Foreign Diplomatic Missions

(2) High Officers of:

(i) The International Labour Organization.

(ii) The Food and Agriculture Organization of United Nations.

(iii) The United Nations Educational, Scientific and Cultural Organization.

(iv) The International Civil Aviation Organization.

(v) The International Monetary Fund.

(vi) The International Bank for Reconstruction and Development.

(vii) The World Health Organization.

(viii) The Universal Postal Union.

(ix) The International Telecommunication Union.

(x) Any other Organization in relationship with United Nations.

(a) Goods imported directly for his personal use or that of his wife (or husband) and children under the age of twenty-one years.

(b) Any one or more of the goods shown on the Schedule hereto purchased locally for his personal use or that of his wife (or husband) and children under the age of twenty-one years subject to the approval of the Ministry of Foreign Affairs.

(3) *Other Diplomatic Members of Foreign Missions and Officers of International Organizations of equal status, viz :*

(a) Counsellors of F.D. Missions.

(b) Secretaries of F.D. Missions.

(c) Career Consuls of F.D. Missions.

(d) Attachés of F.D. Missions.

(e) Officers of International Organizations of equal status certified as such by the Ministry of Foreign Affairs.

- (1) Personal and Household effects directly imported for his personal use *on first posting*.
  - (2) Goods imported directly for his personal consumption.
  - (3) Any one or more of the goods shown on the Schedule to the Order purchased locally for his personal use, subject to the approval of the Ministry of Foreign Affairs.
- (4) *Other Officers and Servants of Foreign Diplomatic Missions and International Organizations, viz:*
- (1) Heads of Chanceries of F.D. Missions.
  - (2) Archivists of F.D. Missions.
  - (3) Other Officials of Missions and International Organizations of equal status.
  - (a) Personal and household effects on first posting.

5. Exemption from customs duties does not extend to articles such as:

- (1) Exhibits, though imported by Missions or International Organizations; yet they are distributed to Commercial Houses with the object of enhancing a country's or particular firm's trade.
- (2) Goods imported for free distribution as gifts.
- (3) Unworked gold and silver.

6. Prohibitions and restrictions in force on goods imported or exported shall apply to such goods imported or exported by seats and Members of Foreign Diplomatic Missions and International Organizations except those imposed by virtue of the Residual Controls Ordinance and Liquor Licence Ordinance.

7. Goods imported under exemption or locally purchased free from customs dues shall not be sold in the Sudan within two years except under conditions agreed to with the Government.

8. Customs duties on local purchases are refundable to persons entitled to concession in respect of items enumerated in the Schedule to this Order.

9. Excise duty is refundable on production of proper bills for identifiable goods provided no deduction of duty had been made on sale by manufacturers.

10. The following shall be issued free of charge to Seats of Missions and I.N.O. and Diplomatic Members of Foreign Missions and to members of International Organizations of equal status:

- |                    |                       |
|--------------------|-----------------------|
| Car Number Plates. | Car Driving Licences. |
| Car Licences.      | Firearms Licences.    |

*List of articles purchased locally by Diplomats on which customs duties are refundable*

A. *Consumable articles*

- Alcoholic liquors, beer and wine;
- Petrol but not lubricating oils and greases.

B. *Non-consumable articles* which can easily be identified by Customs:

- Motor-cars, motorcycles and bicycles but not spare parts. Refrigerators, radios, radiograms and gramophones but not records.

Office furniture, i.e., steel cabinets, steel cupboards, tables and chairs, iron safes, typewriters.

Electric fans, table but not ceiling; air-conditioning apparatus; Hoover cleaners; cookers, burner; washing machines; heaters, water.

Beds, iron.

Sewing machines.

Cameras and projectors.