

N° 3265.

MEXIQUE ET PANAMA

Convention consulaire, avec protocole. Signés à Mexico, le 9 juin 1928.

MEXICO AND PANAMA

Consular Convention, with Protocol. Signed at Mexico, June 9, 1928.

TEXTE ESPAGNOL. — SPANISH TEXT.

N^o 3265. — CONVENCION¹ CONSULAR ENTRE LOS ESTADOS UNIDOS MEXICANOS Y LA REPUBLICA DE PANAMA. FIRMADA EN MEXICO, EL 9 DE JUNIO DE 1928.

Texte officiel espagnol communiqué par le secrétaire d'Etat aux Affaires étrangères de la République de Panama. L'enregistrement de cette convention a eu lieu le 13 septembre 1933.

Spanish official text communicated by the Secretary of State for Foreign Affairs of the Republic of Panama. The registration of this Convention took place September 13, 1933.

LA REPÚBLICA DE PANAMÁ y LOS ESTADOS UNIDOS MEXICANOS, animados del deseo de estrechar los lazos de amistad que existen entre ambos Estados y ampliar sus relaciones comerciales, definiendo al propio tiempo los deberes, derechos, privilegios e inmunidades de los funcionarios consulares respectivos, han acordado celebrar la presente Convención Consular y han designado con ese objeto como sus Plenipotenciarios :

EL PRESIDENTE DE LA REPÚBLICA DE PANAMÁ :

Al señor Don Narciso GARAY, Enviado Extraordinario y Ministro Plenipotenciario de Panamá ante el Gobierno de los Estados Unidos Mexicanos ; y

EL PRESIDENTE DE LOS ESTADOS UNIDOS MEXICANOS :

Al señor Don Genaro ESTRADA, Subsecretario encargado del Despacho de Relaciones Exteriores ;

Quienes después de haberse comunicado sus Plenos Poderes, que encontrados en buena y debida forma, han convenido los artículos siguientes :

Artículo I.

Cada una de las Partes Contratantes recibirá a los funcionarios consulares de la otra, en los lugares de sus respectivos territorios que considere conveniente. No podrá negarse la representación consular de una de las Partes Contratantes en cualquier lugar, dentro del territorio de la otra, que esté abierto a la representación consular de cualquier país extranjero.

Artículo II.

Los funcionarios consulares ejercerán las atribuciones de su cargo dentro de los límites de su respectivo distrito, pero no podrán entrar, en el desempeño de sus funciones ni gozar de las prerrogativas correspondientes, sino después de que el Gobierno ante el cual han sido nombrados

¹ L'échange des ratifications a eu lieu à Mexico, le 12 avril 1930.

¹ The exchange of ratifications took place at Mexico, April 12, 1930.

¹ TRANSLATION.

No. 3265. — CONSULAR CONVENTION BETWEEN THE UNITED STATES OF MEXICO AND THE REPUBLIC OF PANAMA. SIGNED AT MEXICO, JUNE 9, 1928.

THE REPUBLIC OF PANAMA and THE UNITED STATES OF MEXICO, being desirous of strengthening the bonds of friendship which exist between both States and of developing their commercial relations, and at the same time of defining the duties, rights, privileges and immunities of their respective consular officials, have agreed to conclude the present Consular Convention, and have for that purpose appointed as their Plenipotentiaries :

THE PRESIDENT OF THE REPUBLIC OF PANAMA :

M. Narciso GARAY, Envoy Extraordinary and Minister Plenipotentiary of Panama to the Government of the United States of Mexico ; and

THE PRESIDENT OF THE UNITED STATES OF MEXICO :

M. Genaro ESTRADA, Under-Secretary in charge of the Department of Foreign Affairs ;

Who, having communicated their full powers, found in good and due form, have agreed on the following articles :

Article I.

Each of the Contracting Parties shall receive the Consular officials of the other Contracting Party in those places in their respective territories where their presence may be regarded as desirable. Consular representation of one of the Contracting Parties may not be refused in any place in the territory of the other Contracting Party which is open to Consular representation of any foreign country.

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

¹ Translated by the Secretariat of the League of Nations, for information.

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 IV.

Subject to the reservations provided for in the present Convention, Consular officials shall exercise their functions in accordance with the laws and shall respect the authorities of the country to which they are accredited. They shall be amenable to the said laws and authorities in regard to all acts which are not included in the exercise of their functions within the limits of their competence.

Article V.

“ Career ” Consular officials who are nationals of the State appointing them and who do not engage in private commercial activities for the purpose of gain in the country to which they are accredited, may not be arrested unless they are accused of committing an act constituting an offence under the laws of that country and they may not be arrested for acts which are regarded as mere misdemeanours and are punished administratively by the said laws.

In the event of arrest or detention in respect of an offence, the arrest may be effected only in accordance with legal procedure, all the guarantees laid down by law being observed in favour of the accused who, at the time of arrest and throughout the whole procedure, shall be given every consideration compatible with his security. The competent judge shall immediately take action in the case and, subject to the necessary precautions to prevent escape, shall grant the accused the time required to put in order, seal and deposit in a safe place the books and papers of the Consulate. The said books and papers shall not be touched or read by the judge who shall confine himself, should the accused so request him, to supervising the carrying out of the measures that the latter may have taken in order to ensure the safety and inviolability of the said books and papers. Nevertheless, should there be a Chancellor responsible for their custody or if for any other reason the accused makes no application in respect of them, the judge shall abstain from ordering any measures in regard thereto.

In criminal cases, application may be made on behalf either of the prosecution or of the defence for the attendance of Consular officials as witnesses. Such application shall be made with all due regard for the Consular status and the duties of the post, and the Consular official shall comply therewith subject to the provisions of Article VII of the present Convention.

In civil matters, Consular officials shall be subject to the jurisdiction of the courts of the country to which they are accredited.

Article VI.

“ Career ” Consular officials and employees, who are nationals of the State appointing them and who do not engage in private commercial activities for the purpose of gain in the country to which they are accredited, shall be exempt from all taxation whether national, State, provincial or municipal on their persons, their salary, their emoluments or other allowances received by them in respect of their Consular services and from all kinds of requisitions, billeting or services of a military, naval, administrative or police character.

Land or buildings in the territory of either Contracting Party owned by the other Contracting Party and intended for the use of the Consular office and exclusively used for official purposes, shall be exempt from all kinds of national, State, provincial and municipal taxation except such as may be levied in respect of local public services or improvements from which the said buildings benefit.

The Contracting Parties agree to allow the entry free of all Customs duties, subject to the provisions in force in the country of residence, of all the furniture and office material intended

for official use in the Consular offices of the other Contracting Party, and they agree to grant to Consular officials who are nationals of the other Contracting Party and to the members of their family on one single occasion at the time of their appointment, the privilege of entry free of duty in respect of their baggage and of all personal effects which they take with them, it being understood, nevertheless, that no article, the importation of which is prohibited by the law of the Contracting Party in question, may be imported by them into its territory. This privilege granted to Consular officials and their families shall not be granted to those who engage in private commercial activities for the purpose of gain in the country to which they are accredited.

Article VII.

Consular officials may affix to the outside of their offices the coat of arms of their country, with a suitable inscription indicating that the building in question is the Consular office. They may also fly the flag of their country over their offices and on any vessel that they may employ in the exercise of their Consular functions.

The Consular archives and furniture and installations intended for the safeguarding of documents shall be inviolable. In no case may the authorities open them or examine or seize under any pretext the documents or articles contained therein.

Furthermore, no Consular official shall be required to submit the official archives to the courts of law or to make a declaration in respect of their contents or in respect of any other matter which has come to his knowledge in his official capacity or with which he may have had to deal in that capacity.

When Consular officials engage in any commercial activities in the country to which they are accredited, the archives of the Consulate and the documents connected therewith shall be kept in premises completely separated from the official's private or business papers.

Article VIII.

Consular offices and the private residences of Consular officials shall not be used as places of asylum. Consular officials shall be obliged to hand over to the competent authorities of the country to which they are accredited, whenever application is made, any persons against whom proceedings are being taken for offences under the laws of the country and who may have taken refuge in the house occupied for the purposes of the said office or residence.

Article IX.

In the event of the death or absence of Consular officials, or should they for any reason be unable to perform their duties, any auxiliary employee, whose official capacity has been previously notified to the Chancellery, may provisionally exercise Consular functions and, while doing so, shall enjoy all the rights, privileges and exemptions which have been granted to the official holder of the post in question.

Article X.

Consular officials who are nationals of the State which appointed them may, within their own districts, apply to the subordinate national, State, provincial or municipal authorities to ensure the observance of the rights granted to their nationals by treaty or in any other way, except in regard to matters which by reason of their nature must be dealt with only through diplomatic channels.

Article XI.

Consular officials may, in accordance with the laws of the country appointing them, exercise the functions of a registrar of births, marriages and deaths, and of a commissioner for oaths, in respect of legal documents concerning nationals of their country and may exercise the functions of a notary public in respect of judicial documents to be served in the territory of the country which they represent.

Article XII.

Consular officials alone shall be entitled to deal with disputes arising out of internal matters on privately-owned vessels of their country ; they shall also deal with disputes that may have arisen on the high seas or that may arise in ports as between the master of the vessel, the officers and the crew with regard to the maintenance of discipline, even in cases relating to the payment of wages and the fulfilment of undertakings entered into reciprocally, provided that the vessel and the persons against whom charges are made have entered a port within their Consular district.

When acts that have occurred on board a merchant vessel which flies the flag of one of the Contracting Parties and which is in the territorial waters of the other Party constitute a crime or misdemeanour under the laws of the latter, the Consular officials of the country whose flag the vessel flies shall not have jurisdiction.

Consular officials may freely apply for the assistance of the police authorities in any case relating to the maintenance of internal order on board a ship flying the flag of their country within the territorial waters of the country to which they are accredited, but such assistance shall be given only after application has been made therefor.

Should the officers or members of the crew of vessels flying the flag of the country which appointed the Consular officials have to appear before the local courts in regard to matters within the jurisdiction of the said courts, the Consular officials may attend the proceedings.

Article XIII.

Should a national of either Contracting Party die in the territory of the other Contracting Party without having known heirs or testamentary executors, in the said territory, the competent local authorities shall bring the matter to the notice of the nearest Consular official of the State of which the deceased was a national in order that those concerned may be notified. The authorities of the country to which the Consular official in question is accredited shall give him every possible facility to enable him, subject to the jurisdiction of the competent court and in accordance with the laws of the country, to protect and conserve such property as the deceased may have left and to watch over the interests of such heirs as are nationals of the State which appointed him, and he may for that purpose be appointed trustee for the estate, if the law of the country so permits.

Article XIV.

Consular officials of either Contracting Party may receive on behalf of non-resident nationals of the country which they represent the shares to which such nationals are entitled in respect of property left by will, or the compensation payable under the laws concerning industrial accidents or similar laws, for the purpose of remitting the same to the persons concerned through the intermediary of their governmental authorities. The said Consular officials must transmit to the authorities from whom they received the share of property or compensation in question the receipt given by the persons concerned.

Article XV.

Consular officials of either Contracting Party shall, in the ports of the other Contracting Party situated in their Consular district, be entitled to inspect merchant vessels flying the flag of any

country, which are bound or are to clear for ports of the country which they represent, for the purpose of investigating the sanitary conditions and measures taken in respect of health on board the said vessels. They may, accordingly, issue as a result of their investigations a health certificate and any other documents required by the laws of their country and may inform their Government of the manner in which the sanitary regulations have been observed in the port of departure.

Article XVI.

In operations connected with salvage of vessels of either Contracting Party wrecked on the coast or the other, the Consular officials concerned in whose district the wreck has occurred shall take the necessary action.

The authorities of the State to which the Consular officials are accredited shall inform them of the event and shall, in the meantime, take the necessary measures for the protection of persons and conservation of property on the wrecked vessel. The said authorities shall intervene only for the purpose of maintaining order, protecting the interests of salvors not belonging to the crew of the wrecked vessel, and ensuring the enforcement of the regulations to be observed in respect of the import and export of salvaged goods, and such goods shall not be liable to Customs duties unless they are, at that time or subsequently, intended for consumption in the country on whose coast the wreck took place.

No charges of any kind shall be made in respect of the intervention of the local authorities except in regard to the cost of salvage operations and the conservation of salvaged goods and such as the vessels of the country itself would be liable to in similar circumstances.

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.

Article XVIII.

The present Convention shall be ratified by the Contracting Parties in accordance with their respective laws, and the ratifications shall be exchanged in the City of Mexico as soon as possible. It shall come into force as soon as the ratifications are exchanged and shall remain in force for one year after either Contracting Party has notified the other of its desire to terminate it.

In faith whereof the above-mentioned Plenipotentiaries have signed the two original copies of the present Convention and have thereto affixed their seals.

Done in duplicate from one single text, both copies having the same legal effect, in the City of Mexico on the ninth day of June, one thousand nine hundred and twenty-eight.

(Signed) Narciso GARAY.

(Signed) G. ESTRADA.

PROTOCOL.

It is also agreed that should the multilateral Convention on Consular Agents which both Contracting Parties signed at Havana on the twentieth of February of the present year be ratified by them, the said Convention shall supersede the present Convention in respect of any points on which they may differ.

Done at Mexico on the ninth day of June, one thousand nine hundred and twenty-eight.

(Signed) Narciso GARAY.

(Signed) G. ESTRADA.