

No. 903

PHILIPPINES
and
SPAIN

**Treaty on civil rights and consular prerogatives. Signed
at Manila, on 20 May 1948**

*Official texts : English and Spanish.
Registered by the Philippines on 2 September 1950.*

PHILIPPINES
et
ESPAGNE

**Traité relatif aux droits civils et aux prérogatives consu-
laires. Signé à Manille, le 20 mai 1948**

*Textes officiels anglais et espagnol.
Enregistré par les Philippines le 2 septembre 1950.*

No. 903. TREATY¹ BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE SPANISH STATE ON CIVIL RIGHTS AND CONSULAR PREROGATIVES. SIGNED AT MANILA, ON 20 MAY 1948

The Government of the Republic of the Philippines and the Government of the Spanish State, being desirous of defining the rights, privileges, exemptions and immunities of the nationals and the consular officers of each High Contracting Party in the territories of the Other, have decided to conclude a treaty for that purpose and, to that end, have agreed as follows :

Article I

The Filipinos in Spain and the Spaniards in the Philippines who are allowed to establish themselves in the territory of the Other High Contracting Party shall provide themselves with a document of identity issued by the diplomatic or consular agents of their country which certifies their nationality and other informations relative to their civil status. This document shall enable them to obtain the documents that, according to local laws and regulations, they should procure in order to enjoy the right of residence. However, the local authorities may forego the presentation of such document of identity in cases which they deem justifiable.

Article II

The nationals of each of the High Contracting Parties, who are lawfully admitted for permanent residence, may establish themselves in the territories of the Other, in any place they deem convenient for the exercise of any peaceful or lawful pursuit, subject in all cases to compliance with local laws and regulations. They shall enjoy, in matters of procedure, the same treatment as is accorded to the nationals of the Other, with respect to the protection and security of their persons and property and in regard to all judicial, administrative and other legal proceedings.

¹ Came into force on 22 December 1948, upon the exchange of the instruments of ratification at Manila, in accordance with article XXII.

Article III

The properties of Filipino citizens in Spain and the properties of Spanish nationals in the Philippines shall not be taken for public use without just compensation, except as a punishment for crime.

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 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 billetings, 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 XI

1. Consular officers in pursuance of the laws of their respective countries shall have the right, within their respective consular district, to take and attest the oaths, affirmations or depositions of any occupant of a vessel of their country, or of any national of their country, or of any person having permanent residence within the territories of their country; to authenticate signatures; to draw up, attest, certify and authenticate unilateral acts, translations, deeds, testamentary dispositions and contracts of the nationals of the High Contracting Party by which the consular officers

are appointed; and to draw up, attest, certify and authenticate unilateral acts, deeds, contracts, testamentary dispositions and written instruments of any kind, which are intended to have application, execution and legal effect principally in the territories of the High Contracting Party by which the consular officers are appointed.

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

Article XII

1. In case of the death of a national of either High Contracting Party in the territories of the Other High Contracting Party, the competent local authorities shall at once inform the nearest consular officer of the High Contracting Party of which the deceased was a national of the fact of his death, in order that necessary information may be forwarded to the persons concerned.

2. In case of the death of a national of either High Contracting Party in the territories of the Other High Contracting Party without will or testament whereby he has appointed a testamentary executor, the consular officer of the High Contracting Party 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 such property. For this purpose, the consular representative or his delegate may, with the assistance of two disinterested persons, inventory the property left by the deceased, sell at auction, after reasonable public notice, such part of the estate as shall be of a perishable nature, seal the property and store them in a safe place, and submit as early as possible the estate to the local courts for administration. Such consular officer shall have the right to be appointed as administrator within the discretion of a court or other agency controlling the administration of estates, provided the laws governing administration of the estate so permit.

3. Whenever a consular officer accepts the office of the administrator of the estate of a deceased countryman, he subjects himself in that capacity to the jurisdiction of the court or other agency making the appointment, for all necessary purposes, to the same extent as if he were a national of the High Contracting Party by which he has been received.

Article XIII

1. A consular officer of either High Contracting Party shall, within his district, have the right to appear personally or by authorized representative, in all matters concerning the administration and distribution of the estate of a deceased person under the jurisdiction of the local authorities, for all such heirs or legatees in the estate, either minors or adults, as may be non-residents of the country and nationals of the High Contracting Party by which the consular officer was appointed, unless such heirs or legatees have appeared, either in person or by duly authorized representatives.

2. A consular officer of either High Contracting Party shall have the right, on behalf of the non-resident nationals of the High Contracting Party by which he was appointed, to collect and receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of workmen's compensation laws or other like statutes, for transmission through channels prescribed by his Government to the proper distributees, provided that the court or other agency making distribution through him may require him to furnish reasonable evidence of the remission of the funds to the distributees, it being understood that his responsibility with respect to remission of such funds shall cease when such evidence had been furnished by him to, and accepted by, such court or other agency.

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.

Article XVI

1. Whenever the local laws or regulations permit, consular officers shall have the right to make requests to the local authorities for the arrest and return to their respective ships or country of the crews or men manning their ships who have deserted therefrom. To this end they shall apply in writing to the local competent authorities giving proof, by the presentation of the log book or excerpts thereof, or an authenticated copy of the same, if the ship has already cleared from the port, that the person or persons claimed are really members of the crew of the ship. Upon the presentation of this evidence, the local authorities shall not refuse the delivery of the arrested person or persons whose arrest and return to the ship of their country has been requested. The local authorities shall give all the necessary assistance allowed by law for the search and arrest of the deserters until the opportunity presents itself to return them to their country if the ship had already left the port.

2. If the deserter has committed a crime ashore, the local authorities shall defer his deportation until the competent courts of justice of the country where the crime was committed has rendered judgment and, upon conviction, the deserter has fully served the penalty.

3. The High Contracting Parties hereby agree that the crews who are nationals of the country where they deserted are excluded from the provisions of this Article.

Article XVII

Where no stipulation exists to the contrary between the ship owners, the shippers and the insurers, the damages suffered during the voyage aboard ships of either High Contracting Party entering the ports of the Other, either on scheduled calls or by stress of weather shall, if permitted by local laws or regulations, be handled or settled by the consular officers of the Other High Contracting Party to which the ship belongs. However, exception is hereby made of cases of damages in which nationals of the country of entry or of other third Powers are interested, in which cases the local authorities shall take cognizance when there is no compromise or agreement among the parties concerned.

Article XVIII

1. When a vessel belonging to the Government or to subjects of one of the High Contracting Parties is wrecked or stranded upon the territorial coasts of the Other, the local authorities shall notify the consular officer of the district nearest to the place where the wreckage or stranding may have occurred, taking all necessary measures for the protection of persons and the preservation of the wrecked goods pending the arrival of the consular officer or his deputy.

2. All operations relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the Other High Contracting Party shall be directed by the consular officer of the country to which the vessel belongs and within whose district the wreck may have occurred, or by some other person authorized for such purpose by the law of such country and whose identity and authority shall be made known to the local authorities by the consular officer.

3. Pending the arrival of the consular officer or such other authorized person, the local authorities shall take all necessary measures for the protection of persons and the preservation of the wrecked property. The local authorities shall intervene only to maintain order, to protect the interests of the salvors, if the salvors do not belong to the crew of the wrecked vessels, and to ensure the execution of the arrangements which shall be made for the entry and exportation of the salvaged merchandise and equipment. It is understood that such merchandise and equipment shall not be subjected to any customs or custom-house charges unless intended for consumption in the country where the wreck has occurred.

4. The intervention of the local authorities shall occasion no expense of any kind to the owners or operators of the wrecked vessels, except such expenses as may be caused by the operations of salvage and the preservation of the merchandise and equipment saved, together with expenses that would be incurred under similar circumstances by vessels of the country.

5. When the wreck occurs within a port, there shall be observed also those arrangements which may be ordered by the local authorities with a view to avoiding any damage that might otherwise be caused thereby to the port and to other ships.

6. In case of doubt as to the nationality of a wrecked vessel, the application of the provisions of the present Article shall be under the exclusive jurisdiction of the local authorities.

Article XIX

1. Honorary consuls or vice consuls of each High Contracting Party shall enjoy, in the territories of the Other in which they exercise their functions and under the same conditions as those imposed upon consular officers, the rights, privileges and exemptions provided for in paragraphs 1 and 5 of Article IV; in Articles V, VI and VII; in Article VIII, if they are nationals of the country that appointed them; in the first part of paragraph 1 and in the succeeding paragraphs of Article IX; in Articles X and XIV; and in paragraph 4 of Article XV of this Treaty.

2. In any case, they shall enjoy all the rights, privileges, exemptions and immunities granted by the respective High Contracting Parties to honorary consular officers of the same rank of any third Nation.

Article XX

Any right or privilege accorded by Each of the High Contracting Parties to the nationals or consular officers of the Other Party under this Agreement shall be deemed to have been granted on condition of a reciprocal treatment on the part of the Other Contracting Party, it being the intention of both countries to place their respective nationals and consular officers on a plane of equality as far as the enjoyment of the rights and privileges herein granted is concerned.

Article XXI

A consular officer shall cease to discharge his functions (1) by virtue of an official communication from the Government of the High Contracting Party by which he was appointed addressed to the Government of the High Contracting Party by which he has been received, advising that his functions have ceased, or (2) by virtue of a request from the Government of the High Contracting Party by which he was appointed that an exequatur be issued to a successor, or (3) by the withdrawal of the exequatur granted him by the Government of the High Contracting Party in whose territory he has been discharging his duties.

Article XXII

1. The present Treaty shall be ratified and the ratifications thereof shall be exchanged at Manila. The Treaty shall take effect in all its provisions immediately upon the exchange of ratifications and shall continue in force for the term of ten years.

2. If, six months before the expiration of the aforesaid period of ten years, the Government of neither High Contracting Party shall have given notice to the Other High Contracting Party of an intention to terminate the Treaty upon the expiration of the aforesaid period of ten years, the Treaty shall continue in effect after the aforesaid period until six months from the date on which the Government of either High Contracting Party shall have notified to the Government of the Other High Contracting Party an intention to terminate the Treaty.

IN FAITH WHEREOF, the Plenipotentiaries of the High Contracting Parties have signed the present Treaty and have affixed thereto their seals.

DONE in duplicate at Manila, this twentieth day of May, in the year of Our Lord one thousand nine hundred and forty-eight and of the Independence of the Philippines, the second.

For the Government of the Republic of the Philippines :

(Signed) Elpidio QUIRINO

For the Government of the Spanish State :

(Signed) Teodomiro DE AGUILAR Y SALAS