

No. 7211

**UNITED STATES OF AMERICA
and
REPUBLIC OF KOREA**

**Consular Convention. Signed at Seoul, on 8 January
1963**

Official texts: English and Korean.

Registered by the United States of America on 13 April 1964.

**ÉTATS-UNIS D'AMÉRIQUE
et
RÉPUBLIQUE DE CORÉE**

Convention consulaire. Signée à Séoul, le 8 janvier 1963

Textes officiels anglais et coréen.

Enregistrée par les États-Unis d'Amérique le 13 avril 1964.

No. 7211. CONSULAR CONVENTION¹ BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF KOREA. SIGNED AT SEOUL, ON 8 JANUARY 1963

The United States of America and the Republic of Korea,

Being desirous of regulating the consular affairs of each state in the territory of the other,

Have decided to conclude a Consular Convention and have appointed as their plenipotentiaries for this purpose :

The President of the United States of America :

His Excellency Samuel D. Berger, Ambassador Extraordinary and Plenipotentiary, and

The Acting President of the Republic of Korea :

His Excellency Choi Duk-Shin, Minister of Foreign Affairs,

Who, having communicated to each other their respective full powers, which were found in good and due form, have agreed as follows :

Article 1

ASSIGNMENT

(1) Each High Contracting Party shall have the right to send to the other High Contracting Party consular representatives who, after having been recognized in a consular capacity, shall be provided, free of charge, with exequaturs or other authorization.

(2) The sending state shall have the right, subject to the procedures established by paragraph (1) of this Article, to assign one or more members of its diplomatic mission accredited to the receiving state to the performance of consular functions. Such persons shall be entitled to the benefits, and be subject to the obligations, of this Convention, without prejudice to any additional privileges to which they may be entitled by virtue of being members of the diplomatic mission of the sending state.

(3) The location of the consular offices and the limits of the consular districts will be determined by agreement between the receiving state and the sending state.

¹ Came into force on 19 December 1963, the thirtieth day following the date of the exchange of the instruments of ratification which took place at Washington on 19 November 1963, in accordance with the provisions of article 18.

Article 2

LANDS AND BUILDINGS

(1) The sending state shall have the right, in the territory of the receiving state, to acquire, own, lease for any period of time, or otherwise hold and occupy such lands, buildings, and appurtenances as may be necessary and appropriate for governmental purposes, including residences for personnel attached to diplomatic and consular establishments.

(2) The sending state shall have the right to erect buildings and appurtenances on land which it owns or leases in accordance with paragraph (1) of this Article, subject to compliance with local building, zoning, or town planning regulations applicable to all land in the area in which such land is situated.

Article 3

INVIOLABILITY OF OFFICES AND ARCHIVES

(1) The archives of a consular office shall be inviolable. Offices used exclusively for consular purposes shall not be entered by the police of other authorities without the consent of the consular officer, except that, in the case of fire or other disaster, or if the authorities have probable cause to believe that a crime of violence has been or is about to be committed in the consular office consent to entry shall be presumed. In no case shall they examine or seize the papers there deposited.

(2) The national flag of the sending state and its consular flag may be flown at the consular office and at the residence of the consular officer in charge of such office, or on any vehicle, vessel, or aircraft used by him in the performance of his official duties. In times of emergency such flags may be flown at the residence and on the vehicle, vessel, or aircraft of any consular officer of the sending state. The sending state may affix to the buildings in which its consular offices are located signs bearing its coat-of-arms and the designation of the office.

Article 4

NOTARIAL SERVICES AND MISCELLANEOUS FUNCTIONS

A consular officer shall be permitted within his consular district :

- (a) to issue and amend visas and passports and to 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;

- (b) to prepare, attest, receive the acknowledgements of, certify, authenticate, legalize, and, in general, take such action as may be necessary to perfect or to validate any act, document, or instrument of a legal character, as well as copies thereof, including commercial documents, declarations, registrations, testamentary dispositions, and contracts, whenever such services are required by a national of the sending state for use outside the territory of the receiving state or by any person for use in the territory of the sending state;
- (c) to take evidence, on behalf of the courts of the sending state, voluntarily given by any person in the receiving state, and administer oaths to such persons, in accordance with the law of the sending state;
- (d) to obtain copies of or extracts from documents of public registry;
- (e) to inquire of local authorities on behalf of a national of the sending state into matters concerning his person, holdings, or interests, including shares in estates, pension rights, insurance or workmen's compensation benefits, and the like;
- (f) to further the commercial, artistic, scientific, professional, cultural, and educational interests of the sending state.

Article 5

PROTECTION OF NATIONALS

(1) A consular officer shall have the right within his district to interview, communicate with, assist, and advise any national of the sending state and, where necessary, arrange for legal assistance for him, provided such national so requests, or comes voluntarily to the consular office, or does not object to inquiry from or visit by the consular officer. The receiving state shall in no way restrict the access of any national of the sending state to its consular establishments.

(2) The appropriate authorities of the receiving state shall, at the request of any national of the sending state who is under arrest or otherwise detained in custody, immediately inform a consular officer of the sending state, who shall be accorded full opportunity to visit and communicate with such a national in order to safeguard his interests.

(3) A consular officer of the sending state shall have the right to visit and communicate with, subject to prison regulations, a national of the sending state who is serving a sentence of imprisonment.

(4) For the purposes of the provisions of paragraphs (1) and (2) of this Article, the phrase "national of the sending state" shall be deemed to apply also to any person employed on a vessel or aircraft of the sending state, who is not a national of the receiving state.

Article 6

ESTATES

(1) In the case of the death of a national of the sending state in the territory of the receiving state, without leaving in the territory of his decease any known heir or testamentary executor, the appropriate local authorities of the receiving state shall as promptly as possible inform a consular officer of the sending state.

(2) A consular officer of the sending state may, within the discretion of the appropriate judicial authorities and if permissible under then existing applicable local law in the receiving state :

- (a) take provisional custody of the personal property left by a deceased national of the sending state, provided that the decedent shall have left in the receiving state no heir or testamentary executor appointed by the decedent to take care of his personal estate; provided that such provisional custody shall be relinquished to a duly appointed administrator;
- (b) administer the estate of a deceased national of the sending state who is not a resident of the receiving state at the time of his death, who leaves no testamentary executor, and who leaves in the receiving state no heir, provided that if authorized to administer the estate, the consular officer shall relinquish such administration upon the appointment of another administrator;
- (c) represent the interests of a national of the sending state in an estate in the receiving state, provided that such national is not a resident of the receiving state, unless or until such national is otherwise represented; provided, however, that nothing herein shall authorize a consular officer to act as an attorney at law.

(3) Unless prohibited by law, a consular officer may, within the discretion of the court, agency, or person making distribution, receive for transmission to a national of the sending state who is not a resident of the receiving state any money or property to which such national is entitled as a consequence of the death of another person, including shares in an estate, payments made pursuant to workmen's compensation laws, pension and social benefits systems in general, and proceeds of insurance policies. The court, agency, or person making distribution may require that a consular officer comply with conditions laid down

with regard to (a) presenting a power of attorney or other authorization from such non-resident national, (b) furnishing reasonable evidence of the receipt of such money or property by such national, and (c) returning the money or property in the event he is unable to furnish such evidence.

(4) Whenever a consular officer shall perform the functions referred to in paragraphs (2) and (3) of this Article, he shall be subject, with respect to the exercise of such functions, to the laws of the receiving state and to the jurisdiction of the judicial and administrative authorities of the receiving state in the same manner and to the same extent as a national of the receiving state.

Article 7

SHIPPING AND AVIATION

(1) A consular officer may take measures to enforce the shipping laws of the sending state and for this purpose may visit vessels and be visited by the masters and crews of vessels of the sending state. A consular officer may also visit vessels of any registry destined to a port of the sending state to execute documents or to obtain information required by the sending state.

(2) Without prejudice to the superior right of the administrative and judicial authorities of the receiving state to take cognizance of crimes or offenses which disturb the peace of the port or to enforce the laws of the receiving state applicable to vessels of any state within its waters, a consular officer may exercise jurisdiction pursuant to the law of the sending state over controversies, including wage and contract disputes, aboard vessels of the sending state which are in the waters of the receiving state, and may conduct investigations and convene boards of inquiry. A consular officer may request the assistance of competent authorities of the receiving state in performance of such duties. The peace of the port may be considered to be disturbed when an offense is committed aboard a vessel within the waters of the receiving state which constitutes a serious crime according to its laws.

(3) In any case where the authorities of the receiving state arrest or otherwise detain in custody any person who is not a national of the receiving state and who is aboard or who is an officer or crew member of a vessel under the flag of the sending state, or seize any property aboard such a vessel, the competent authorities of the receiving state shall inform a consular officer of the sending state thereof and shall accord the consular officer full opportunity to visit and

communicate with such person and to take appropriate measures to safeguard the interests of such person or such vessel.

(4) If a vessel of the sending state is wrecked in waters of the receiving state, the appropriate authorities of the receiving state shall inform the consular officer and shall take all practicable measures for the preservation and protection of the vessel, persons, and property on board. If the owner, or anyone he has authorized to act for him, is unable to make necessary arrangements in connection with the vessel or its cargo, the consular officer may make arrangements on his behalf. The consular officer may under similar circumstances make appropriate arrangements in connection with cargo owned by nationals of the sending state and found or brought into port from a wrecked vessel of other registry, except a vessel of the receiving state. No customs duties shall be levied against a wrecked vessel of the sending state, or its cargo or stores unless they are delivered for use in the receiving state.

(5) The term "vessel", as used herein, means all types of vessels, whether privately owned or operated, or publicly owned or operated; but this term does not, except with reference to paragraph (4) of this Article, include vessels of war. For the purposes of this Article, the term "vessel" shall be deemed to include aircraft, the term "shipping laws" shall be construed, as applied to aircraft, to refer to aviation laws, and the term "waters" shall be construed, as applied to aircraft, to refer to territory of the receiving state.

Article 8

ADDITIONAL FUNCTIONS

In addition to the functions specified in this Convention, a consular officer shall be permitted to perform such other consular and related functions as are recognized by the receiving state as being appropriate to his office.

Article 9

RIGHT OF COMMUNICATION

(1) A consular officer shall have the right to communicate with his government or with the diplomatic mission and consular offices of the sending state in the receiving state or with other diplomatic missions and consular offices of the sending state, making use of all public means of communication. In addition, a consular officer shall have the right to send and receive official

correspondence, by courier or by means of sealed official pouches and other official containers, or by public communications facilities, either in clear or secret language.

(2) The official correspondence referred to in this Article shall be inviolable and the authorities of the receiving state shall not examine or detain it. Sealed official pouches and other official containers shall be inviolable when they are certified by a responsible officer of the sending state as containing only official correspondence.

(3) Even in the event the receiving state should be engaged in armed conflict, it will not restrict the right of communication between the consular officer and his government and between the consular officer and the diplomatic mission of the sending state in the receiving state.

Article 10

IMMUNITIES

(1) A consular officer or employee shall not, except with the consent of the sending state, be subject to the jurisdiction of the courts of the receiving state in respect of acts performed by him within the scope of his official duties, other than as provided in Article 6 (4).

(2) A consular officer or employee shall have the right to refuse a request from the administrative or judicial authorities of the receiving state to produce any documents from the consular archives or to give evidence relating to matters falling within the scope of his official duties. Such a request, however, as well as requests for testimony, shall be complied with in the interests of justice if it is possible to do so without prejudicing the interests of the sending state. The administrative or judicial authorities requiring testimony shall take all reasonable steps to avoid interference with the performance of official duties and, wherever possible or permissible, arrange for the taking of such testimony, orally or in writing, at the residence or office of the consular officer or employee.

(3) A consular officer or employee shall, except as provided in Article 15, 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 more than one year. The exemption set forth in this paragraph may be waived by the sending state. Furthermore, even in cases where such officers and employees are exempt from arrest or prosecution they nonetheless should observe local laws and regulations, including traffic regulations.

(4) A consular officer or employee and his wife, minor children, and other dependents residing with him, shall, except as provided in Article 15, enjoy

exemption in the receiving state from service in the armed forces, jury duty, or any other type of compulsory service, and from any contribution in lieu thereof.

(5) A consular officer or employee and his wife, minor children, and other dependents residing with him, shall, except as provided in Article 15, be exempt in the receiving state from any requirements with regard to the registration of aliens, the obtaining of permission to reside, and similar regulations applicable generally to aliens.

Article 11

CUSTOMS PRIVILEGES

(1) The sending state shall have the right to import into the receiving state, free from customs duties and internal revenue or other taxes imposed upon or by reason of importation, material and equipment for the construction, alteration, repair, maintenance, and operation of buildings and appurtenances erected in accordance with paragraph (2) of Article 2, or otherwise held or occupied in accordance with paragraph (1) of Article 2.

(2) All articles, including vehicles, vessels, and aircraft, required exclusively for the performance of official governmental functions or for the construction, maintenance, and operation of property held by the sending state in accordance with Article 2, paragraphs (1) and (2), shall be exempt within the territories of the receiving state from all customs duties and internal revenue or other taxes imposed upon or by reason of importation.

(3) The baggage, effects, and other articles, including vehicles, vessels, and aircraft, imported exclusively for the personal use of a consular officer or employee, his wife, minor children, and other dependents residing with them shall, except as provided in Article 15, be exempt from all customs duties and internal revenue or other taxes imposed upon or by reason of importation. Such exemptions shall be granted with respect to the property accompanying the person entitled thereto on first arrival and on subsequent arrivals, and to that consigned to such officers and employees during the period in which they continue in status.

(4) It is understood, however, that : (a) paragraph (3) of this Article shall apply as to consular officers and employees only when their names have been communicated to the appropriate authorities of the receiving state and they have been duly recognized in their official capacity; (b) in the case of consignments, the receiving state may, as a condition to the granting of exemption,

require that a notification of any such consignment be given in a prescribed manner; and (c) nothing herein authorizes importations specifically prohibited by law.

Article 12

TAX PRIVILEGES

(1) Lands and buildings situated in the territory of the receiving state, of which the sending state is the legal or equitable owner and which are used for the purposes specified in paragraph (1) of Article 2, shall be exempt from taxation of every kind, national, state, provincial, and municipal, other than assessments levied for services of local public improvements by which the premises are benefited.

(2) The sending state shall, with respect to all matters relating to the performance of consular functions or to the construction, maintenance, and operation of property held in accordance with Article 2, paragraphs (1) and (2), be exempt from the payment of all taxes and similar charges of any kind imposed by the receiving state or any local subdivision thereof for the payment of which the sending state would otherwise be legally liable, including taxes and similar charges payable in connection with the acquisition or rendition of services and the ownership, acquisition, operation, possession, or sale of immovable and movable property, including vehicles, vessels, and aircraft.

(3) A consular officer or employee who is not a national of the receiving state and who does not have the status in the receiving state of an alien lawfully admitted for permanent residence shall be exempt from the payment of all taxes or similar charges of any kind imposed by the receiving state or any local subdivision thereof on the official emoluments, salaries, wages, or allowances received by such officer or employee from the sending state.

(4) A consular officer or employee shall, except as provided in paragraph (5) of this Article and Article 15, be exempt from the payment of all taxes or similar charges of any kind imposed by the receiving state or any local subdivision thereof for the payment of which the officer or employee would otherwise be legally liable.

(5) The exemption provided for in the preceding paragraph shall not apply with respect to taxes or similar charges upon :

- (a) the acquisition, ownership, or occupation of immovable property situated in the receiving state;
- (b) income received from sources within the receiving state other than income described in paragraph (3);

- (c) the passing at death of property in the receiving state; and
- (d) the transfer by gift of property in the receiving state.

(6) Notwithstanding the provisions of paragraph (5) (c) of this Article, the movable property belonging to the estate of a deceased consular officer or employee and used by him in the performance of his official duties shall, except as provided by Article 15, be exempt from all estate, inheritance, succession, or similar taxes imposed by the receiving state or any local subdivision thereof. Any part of the estate of a deceased consular officer or employee which does not exceed in value two times the amount of all official emoluments, salaries, and allowances received by such 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 13

INSURANCE

All vehicles, including automobiles, vessels, and aircraft, owned by the sending state and used for consular purposes, and all vehicles, vessels, and aircraft owned by a consular officer or employee of the sending state or his wife, minor children, and other dependents, shall be adequately insured against third party risks; provided that this Article shall not apply to any person who is a national of the receiving state or has the status in the receiving state of an alien lawfully admitted for permanent residence.

Article 14

DIPLOMATIC OFFICERS AND EMPLOYEES

The provisions of Articles 11, 12, and 13 shall have like application to diplomatic officers and employees, without prejudice to such rights and benefits as they may have under international law.

Article 15

LIMITATIONS

The privileges and immunities conferred by Article 10 (3), (4), and (5), Article 11 (3), and Article 12 (4) and (6) shall not be accorded to a consular officer or employee, or his wife, minor children, and other dependents, if such officer or employee is a national of the receiving state, or has the status in the receiving state of an alien lawfully admitted for permanent residence, or is

engaged in any private occupation for gain in the receiving state, or is other than a full-time officer or employee of the sending state.

Article 16

SETTLEMENT OF DISPUTES

Any dispute concerning the interpretation or application of the present Convention which is not settled by negotiation may be referred, at the option of either party, to the International Court of Justice for decision, provided (1) that matters falling within the discretion of either party under the Convention shall not be subject to the Court's jurisdiction, and (2) that neither party may refer a dispute to the Court until it has exhausted its legal remedies in the territory of the other Party, in the same manner as would a private person claiming rights, exemptions, and immunities under local laws and regulations.

Article 17

TERRITORIAL APPLICATION

The territories to which the provisions of this Convention shall apply shall be understood to comprise all areas of land and water subject to the sovereignty or authority of the High Contracting Parties, except the Panama Canal Zone.

Article 18

ENTRY INTO FORCE

1. The present Convention shall be ratified, and the ratifications thereof shall be exchanged at Washington as soon as possible.

2. The present Convention shall enter into force on the thirtieth day following the day of exchange of ratifications. It shall remain in force for ten years and shall continue in force thereafter until terminated as provided herein.

3. Either High Contracting Party may, by giving one year's written notice to the other High Contracting Party, terminate the present Convention at the end of the initial ten-year period or at any time thereafter.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Convention and have affixed hereunto their seals.

DONE in duplicate, in the English and Korean languages, at Seoul this 8th day of January, 1963.

For the United States of America

Samuel D. BERGER

[SEAL]

For the Republic of Korea :

CHOI DUK-SHIN

[SEAL]
