

No. 7327

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
AUSTRIA**

**Consular Convention (with schedule, Protocol of Signature
and exchange of notes). Signed at Vienna, on 24 June
1960**

Official texts: English and German.

Registered by the United Kingdom of Great Britain and Northern Ireland on 2 July 1964.

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
AUTRICHE**

**Convention consulaire (avec annexe, Protocole de signature
et échange de notes). Signée à Vienne, le 24 juin 1960**

Textes officiels anglais et allemand.

Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 2 juillet 1964.

No. 7327. CONSULAR CONVENTION¹ BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE REPUBLIC OF AUSTRIA. SIGNED AT VIENNA, ON 24 JUNE 1960

PREAMBLE

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth, and the Federal President of the Republic of Austria ;

Being Desirous of regulating their relations in the consular field and of thus facilitating the protection of the nationals and organisations of each High Contracting Party in the territories of the other ;

Have Decided to conclude a Consular Convention and have appointed as their Plenipotentiaries for this purpose :

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth (hereinafter referred to as "Her Majesty") :

For the United Kingdom of Great Britain and Northern Ireland :

The Right Honourable John Selwyn Brooke Lloyd, C.B.E., Q.C., M.P., Her Majesty's Principal Secretary of State for Foreign Affairs ;

The Federal President of the Republic of Austria :

For the Republic of Austria :

Herr Dr. Bruno Kreisky, Federal 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 :

¹ Came into force on 26 December 1963, the thirtieth day after the date of exchange of the instruments of ratification which took place at London on 26 November 1963, in accordance with article 47 (1).

PART I

APPLICATION AND DEFINITIONS

Article 1

This Convention applies,

(1) on the part of Her 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 ;

(2) on the part of the Republic of Austria, to the Republic of Austria.

Article 2

For the purposes of this Convention

(1) the term "sending State" means, according to the context, the High Contracting Party by whom a 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 a consular officer exercises his functions as such, 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 the district of a consular officer is situated and which has been notified as constituting a territorial unit for the purposes of all or some of the Articles of the Convention, in conformity with the provisions of Article 46 ;

(4) the term "nationals" means,

(a) in relation to Her Majesty, all British subjects and British protected persons belonging to any of the categories specified in the Schedule¹ to the Convention, together with, where the context permits, all juridical entities duly created under the law of any of the territories to which the Convention applies under paragraph (1) of Article 1 ;

(b) in relation to the Republic of Austria, all persons who possess Austrian nationality under Austrian law, together with, where the context permits, all juridical entities, companies and partnerships duly created under that law ;

(5) the term "vessel" means, for the purposes of Part VIII,

(a) in relation to Her Majesty, any ship of craft registered at a port in any territory to which the Convention applies under paragraph (1) of Article 1 ;

¹ See p. 140 of this volume.

(b) in relation to the Republic of Austria, any ship or craft registered in the Austrian register of sea-going vessels or otherwise entitled to fly the Austrian flag ;

(6) the term "consular officer" means any person who holds from the appropriate authorities of the receiving State a valid exequatur or other authorisation, including a provisional authorisation, to act in such capacity on behalf of the sending State ; a consular officer may be a career officer or an honorary officer ;

(7) the term "consular employee" means any person, not being a consular officer, employed by the sending State at a consulate for the performance of consular duties, provided that his name has been duly communicated in accordance with the provisions of Article 5 to the appropriate authorities of the territory and provided also that the said authorities have not declined to recognise him, or to continue to recognise him ; the term does not, however, apply to any driver, 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.

PART II

CONSULATES, CONSULAR DISTRICTS AND CONSULAR APPOINTMENTS

Article 3

(1) The sending State may establish and maintain consulates in 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.

(2) The sending State may

- (a) determine whether a consulate shall be a consulate-general, consulate or vice-consulate ;
- (b) subject to paragraph (3) of this Article, prescribe the limits of the districts of each of its consulates.

(3) The receiving State may 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 official commercial representatives, of a third State ;

- (b) of any territory of a third State. Any such objection shall be made through the diplomatic channel.

(4) The sending State shall keep the receiving State informed of the district of its consulates.

Article 4

(1) The sending State may, for the purposes of discharging consular duties, employ at its consulates in the receiving State the necessary number of consular officers.

(2) The sending State shall notify the receiving State of the appointment of a consular officer to a consulate. Any such notification shall be made in writing through the diplomatic channel. In the case of an honorary consular officer who is a national of the receiving State, that State may require that its consent to his appointment to a consulate shall be obtained in advance through the diplomatic channel.

(3) The exequatur or other authorisation shall be granted as soon as possible and free of charge by the receiving State upon the presentation of the commission or other notification of appointment of a consular officer; the said commission or notification shall specify the area within which the consular officer is authorised to perform consular functions. Where necessary, a provisional authorisation shall be accorded, pending the grant of the exequatur or other authorisation.

(4) The exequatur or other authorisation shall not be refused without good cause.

(5) The receiving State shall not be deemed to have consented to a consular officer 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, including a provisional authorisation.

(6) The receiving State shall without delay inform its appropriate authorities of the name of any consular officer entitled to act under the Convention.

(7) The receiving State may revoke the exequatur or other authorisation of a consular officer whose conduct has given serious cause for complaint.

Article 5

(1) The sending State may, for the purposes of discharging consular duties, employ at its consulates in the receiving State the necessary number of consular employees.

(2) The competent authority of the receiving State (which shall be, in relation to metropolitan territory, the Foreign Office or the Bundesministerium für Auswärtige Angelegenheiten, as the case may be, and, in relation to non-metropolitan territory, an authority to be designated by the receiving State) shall be notified of the appointment of a consular employee to the staff of a consulate and shall be kept informed of his private address.

(3) The competent authority may, either at the time of notification or subsequently, decline to recognise, or to continue to recognise, any person as admitted in the

capacity of a consular employee. The person concerned shall, however, be considered to have been so admitted, unless and until the authority signifies its unwillingness to recognise him in that capacity.

Article 6

(1) If a consular officer dies, is absent or is otherwise prevented from fulfilling his duties, the sending State shall be entitled to appoint a temporary successor and the person so appointed shall be recognised in this capacity upon notification to the appropriate authority of the receiving State. Any such person shall, during the period of his appointment, be accorded the same treatment as would be accorded to the consular officer in whose place he is acting, or as he would himself receive if the appointment were a permanent one, whichever is the more favourable.

(2) The receiving State shall not, however, be obliged, by virtue of paragraph (1) of this Article,

- (a) to regard as authorised to perform consular functions in the territory any person whom it does not already recognise in a diplomatic or consular capacity ; or
- (b) to extend to any person temporarily acting as a consular officer, any right, privilege, exemption or immunity the exercise or enjoyment of which is, under this Convention, subject to compliance with a specified condition, unless he himself complies with that condition.

Article 7

The sending State may, with the permission of the receiving State, appoint one or more members of its diplomatic mission accredited to that State to perform consular, in addition to diplomatic, duties. Any such appointment shall be made in accordance with the provisions of Article 4 or of Article 5, as the case may be. Any person so appointed shall continue to enjoy all those privileges and immunities which he derives from his diplomatic status, except that no claim to immunity greater than that of a consular officer or employee, as the case may be, under this Convention, shall be made on his behalf in respect of the performance by him in his consular capacity of any of the functions enumerated in Articles 24 to 44.

Article 8

(1) A consular officer, as an official agent of the Government of the sending State, shall be entitled to special respect and to the high consideration of all officials of the receiving State with whom he has official intercourse.

(2) The receiving State shall take all appropriate measures to ensure the protection of the consulates of the sending State and of the lives and safety of consular officers and employees.

- (3) It is understood that the provisions of paragraph (2) of this Article
- (a) shall apply to consular residences in the same way as to consulates and to members of the families of consular officers and employees, forming part of their households, in the same way as to such officers and employees ;
 - (b) shall not oblige the receiving State to take any special measures in relation to any consular officer or employee who is a national of that State and is not also a national of the sending State.

PART III

LEGAL RIGHTS AND IMMUNITIES

Article 9

- (1) The sending State, either in its own name or in the name of one or more natural or juridical persons acting on its behalf, may, subject to compliance with such conditions as may be prescribed by the law of the territory,
- (a) acquire, hold and occupy, under any form of tenure which may exist under that law, land, buildings, parts of buildings and appurtenances for the purposes of establishing or maintaining a consulate or a residence for a career consular officer or for a consular employee, or for other purposes, to which the receiving State does not object, arising out of the operation of the consular establishment of the sending State ;
 - (b) dispose of land, buildings, parts of buildings and appurtenances so acquired.
- (2) 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.
- (3) The sending State may, for any of the purposes specified in this Article, construct buildings and appurtenances on land which it has so acquired.
- (4) Nothing in the provisions of this Article shall be regarded as exempting the sending State from the operation of any building or town planning regulation, or other restriction, applicable to the area in which the land, buildings, parts of buildings and appurtenances, referred to in paragraph (1), are situated.

(5) The provisions of paragraph (1) of this Article, in so far as they relate to the acquisition of land in full ownership, shall not apply to

- (a) the Island of Jersey ; or

(b) any territory to which this Convention applies under paragraph (1) of Article 1 where under the law at present in force the acquisition of land in full ownership is restricted to the indigenous inhabitants of that territory,

unless and until the Government of the United Kingdom of Great Britain and Northern Ireland shall have notified the Austrian Federal Government that the law of the Island of Jersey or of the territory in question has been amended so as to enable the said provisions to be applied without qualification in relation thereto.

Article 10

The receiving State shall permit :

- (a) the coat-of-arms or national device of the sending State, together with an appropriate inscription designating the consulate in the official language of that State, to be placed on the outer enclosure and on the outer wall of the building in which a consulate is installed as also on or by the entrance door to the consulate ;
- (b) the flag of the sending State and its consular flag to be flown at the consulate and likewise at the residence of a consular officer ;
- (c) the said coat-of-arms or device to be displayed and the said flags to be flown on any vehicle, vessel or aircraft which is employed by a consular officer in the exercise of his duties.

Article 11

(1) (a) 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 any territory to which this Convention applies under paragraph (1) of Article 1, or of the Federal Minister for Foreign Affairs in the case of the Republic of Austria. The consent of the consular officer may, however, be assumed in the event of fire or other disaster or if the police or other authorities concerned have reasonable cause to believe that a crime involving violence to persons or property is about to be, or is being or has been committed in the consular office.

(b) The provisions of sub-paragraph (a) 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.

(2) A consulate shall not be used to afford asylum to any fugitive from justice. If a consular officer shall refuse to surrender a fugitive from justice on the lawful demand of the authorities of the territory, the said authorities may, where necessary,

enter to apprehend the fugitive, provided that in taking such action they comply with the provisions of paragraph (1) of this Article relative to the consular office.

(3) If an entry is made into a consular office pursuant to paragraph (1) or paragraph (2) of this Article, the inviolability of the consular archives, as recognised in paragraph (1) of Article 13, shall be respected.

(4) A consular officer shall not take advantage of the privileges accorded to the consular office under this Article for any purpose not connected with the performance of his consular duties.

Article 12

(1) The receiving State shall treat as immune from all forms of requisitioning for purposes of national defence or public utility

- (a) a consulate of the sending State, together with the furniture and equipment thereof ;
 - (b) the vehicles, vessels and aircraft of any such consulate ;
 - (c) the residence, together with the furniture and equipment thereof, of a consular officer or employee of the sending State, provided, in either case, that he complies with the conditions specified in paragraph (5) of this Article ;
 - (d) the vehicles, vessels and aircraft of any such consular officer or employee or of any member of his family forming part of his household ; and
- (e) the personal effects of any person to whom sub-paragraph (d) of this paragraph applies.

(2) Nothing in the provisions of paragraph (1) of this Article shall, however, preclude the receiving State from the expropriation or seizure for purposes of national defence or public utility, in conformity with the law of the territory, of a consulate of the sending State or of a residence of a consular officer or employee of that State, 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 duties.

(3) In the event of the expropriation or seizure of a consulate or of a residence of a consular officer or employee, in conformity with paragraph (2) of this Article, the receiving State shall take all appropriate measures, in compliance with the law of the territory, with a view to ensuring that suitable alternative accommodation is obtained.

(4) In addition, if a consulate of the sending State is so expropriated or seized, prompt and adequate compensation shall be paid to that State. Such compensation shall be in a form readily convertible into the currency of and transferable to the sending State at the market selling rate ruling at the close of business on the date on which deprivation takes place or, if there was no quotation on that date, at the rate

ruling at the close of business on the last preceding date when there was such a quotation.

(5) The conditions referred to in paragraph (1) of this Article are that the consular officer or employee concerned shall

- (a) be a national of the sending State ;
- (b) not be engaged in private occupation for gain in the territory ;
- (c) be a permanent official of the sending State or, if not a permanent official of that State, not have been ordinarily resident in the territory at the time of taking up his consular appointment.

(6) The term "consulate" shall include, for the purposes of this Article, all land, buildings, parts of buildings and appurtenances, held or occupied exclusively for any of the purposes specified in paragraph (1) of Article 9.

Article 13

(1) The archives of a consulate shall be inviolable and the authorities of the territory shall not, under any pretext, examine or detain any document or object forming part of the said archives.

(2) Such archives shall be kept separate from any document or object relative to the private affairs of a consular officer or employee.

Article 14

(1) A consular officer may exchange official communications and correspondence by means of, in the former case, post, telegraph, telephone and other public services and, in the latter case, sealed pouches, bags and other containers with

- (a) the central Government of the sending State, the diplomatic mission of that State accredited to the receiving State and its consulates situated in the same territory of the receiving State as the consulate of the consular officer ;
- (b) the administrations of territories for whose international relations the Government of the sending State are responsible and its diplomatic missions and consulates situated elsewhere than in the same territory of the receiving State as the consulate of the consular officer.

(2) Secret language may be used in the communications and correspondence referred to in paragraph (1) of this Article.

(3) The receiving State may, however, if it is involved in hostilities, withdraw or restrict at its discretion the said rights of communication and correspondence with

the administrations, diplomatic missions and consulates, referred to in sub-paragraph (b) of paragraph (1) of this Article.

(4) The official consular correspondence referred to in paragraph (1) of this Article shall be inviolable, and the authorities of the territory shall not under any pretext examine or detain it. The pouches, bags and other containers, referred to in the said paragraph, shall be accorded the same treatment as is accorded by the receiving State to the diplomatic bags of the sending State.

Article 15

(1) A consular officer or employee shall, except where there is provision in this Convention to the contrary, be amenable, alike in civil and in criminal proceedings, to the jurisdiction of the receiving State to the extent required by the law of that State.

(2) A consular officer or employee shall not be held liable, in proceeding in the receiving State, in respect of any act performed in his official capacity and falling within the functions of a consular officer under international law, including those referred to in Articles 24 to 44, except with the consent of the sending State signified through the diplomatic channel.

(3) (a) The provisions of paragraph (2) of this Article shall not, however, preclude a consular officer or employee from being held liable in civil proceedings either

- (i) arising out of a contract concluded by him in which he did not contract expressly or impliedly as agent of his Government ; or
- (ii) by a third party in respect of damage caused by a motor vehicle (including any trailer), vessel or aircraft, it being understood that any such motor vehicle, vessel or aircraft owned by a consular officer or employee shall be adequately insured against third party risks and that any such contract of insurance shall be in conformity with the law of the territory.

(b) The provisions of sub-paragraph (a) of paragraph (3) of Article 17 shall not entitle a consular officer or employee to refuse to give evidence in any proceedings to which the provisions of sub-paragraph (a) of this paragraph are applicable or to refuse to produce from the consular archives any document or object relating exclusively to the subject-matter of such proceedings.

Article 16

A career consular officer shall not, in respect of any act performed otherwise than in his official capacity, be detained in custody for an offence against the law of the territory, except

(a) in the event of his being detected in the course of committing an offence ;

- (b) in the case of an offence for which a maximum sentence of imprisonment for not less than five years, or a more severe sentence, may be awarded ;
- (c) in the case of any offence, for the purpose of standing trial (it being understood that such detention shall only continue during the progress of proceedings in court, exclusive of any adjournments thereof), or upon conviction ; or
- (d) with the consent of the sending State signified through the diplomatic channel.

Article 17

(1) A consular officer or employee may, in conformity with the law of the territory, be required to give evidence in either civil or criminal proceedings.

(2) In such event, all reasonable measures shall be taken to avoid interference with the work of the consulate and, in the case of a career consular officer, arrangements shall, wherever possible and permissible, be made for the taking of the evidence, orally or in writing, at his office or residence.

(3) A consular officer or employee may, however, refuse

- (a) to give evidence relative to any matter within the scope of his official duties or to produce or surrender any document or object from the consular archives ; any request so to give evidence shall, however, be complied with in the interests of justice if, in the judgment of the consular officer in charge of the post, it is possible for this to be done without prejudice to the interests of the sending State ;
- (b) to give evidence in the capacity of an expert witness regarding the law of the sending State.

Article 18

(1) A consular officer, as also his wife and minor children forming part of his household, shall be exempt from the requirements of the law of the territory with regard to the registration of foreigners and permission to reside, and shall not be subject to deportation.

(2) A consular employee, as also his wife and minor children forming part of his household, shall enjoy the same exemptions as specified in paragraph (1) of this Article, provided that

- (a) he is a national of the sending State ;
- (b) he is not engaged in private occupation for gain in the territory ; and
- (c) he is a permanent official of the sending State or, if not a permanent official of that State, was not ordinarily resident in the territory at the time of taking up his consular appointment.

(3) A consular officer or employee, as also the wife or minor child of a consular officer or employee, to whom the provisions of this Article are applicable, shall be given a suitable document by the competent authority of the receiving State.

Article 19

(1) A consular officer, provided that he is not a national of the receiving State, shall be exempt in that State from

- (a) all compulsory service, whether in the armed forces or otherwise, in connexion with the defence of that State, including civil defence, and all contributions, whether by payment or otherwise, in lieu of such service ;
- (b) all other compulsory public service, including jury service, of any kind.

(2) A consular employee, provided that he is not a national of the receiving State and provided also that he complies with the conditions set out in paragraph (2) of Article 18, shall likewise enjoy the exemptions set out in paragraph (1) of this Article.

PART IV

FINANCIAL PRIVILEGES

Article 20

The sending State, or any natural or juridical person acting on its behalf in conformity with paragraph (1) of Article 9 shall be exempt 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 sub-division of that State, in respect of

- (a) the ownership or occupation of land, buildings, parts of buildings or appurtenances used exclusively for any of the purposes specified in the said paragraph with the exception of taxes or other assessments levied for services or for local public improvements, which shall be payable to the extent that the said premises are benefited thereby ;
- (b) transactions or instruments relative to the acquisition of immovable property for any of the said purposes ;
- (c) the ownership, possession or use of movable property for consular purposes.

Article 21

(1) No tax or other similar charge of any kind shall be imposed or collected by the receiving State, or by any state, province, municipality or other sub-division of that State, in respect of

- (a) any fee received on behalf of the sending State in compensation for consular services or any receipt given for the payment of such fee ;
- (b) the official emoluments, salary, wages or allowances received as compensation for his consular services by a consular officer ;
- (c) the official emoluments, salary, wages or allowances received as compensation for his services at a consulate by a consular employee, unless such employee is a national of the receiving State and is not also a national of the sending State.

(2) In addition, the sending State or any consular officer or employee shall 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 sub-division of that State, in respect of acts performed by a consular officer or employee in his official capacity and falling within the scope of his official duties. 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.

Article 22

(1) Subject to the provisions of paragraph (2) and of paragraph (3) of this Article, a consular officer or employee who complies with the conditions set out in paragraph (4) of this Article shall be exempt in the territory from all taxes or other similar charges of any kind (other than taxes or duties, which are, or may be, imposed upon or by reason of importation or re-exportation, exemption from which is dealt with exclusively in Article 23) which are, or may be, imposed or collected by the receiving State or by any state, province, municipality or other sub-division of that State.

(2) The provisions of paragraph (1) of this Article shall apply only to taxes or other similar charges in respect of which a consular officer or employee would, in the absence of the exemption provided for in 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 and the payment of that income to him in the territory is subject to the deduction of income tax, he shall be entitled to repayment of the tax so deducted.

- (3) The provisions of paragraph (1) of this Article shall not apply
- (a) to taxes or other similar charges of any kind imposed or collected on
- (i) the ownership or occupation of immovable property situated within the territory ;
 - (ii) the ownership or possession of movable property in the territory by non-residents ;
 - (iii) income derived from other sources within the territory ;
 - (iv) 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) transactions or instruments effecting transactions, such as charges on the sale or transfer of money or other property, or stamp duties imposed or collected in connexion therewith ; nor
- (b) to excise, consumption or other similar taxes or charges which shall not, however, be deemed to include any such tax or charge imposed or collected
- (i) on the ownership, use or operation of a vehicle, vessel or aircraft, or, without prejudice to sub-paragraph (ii) and (iii), on any article imported in accordance with Article 23 ;
 - (ii) in relation to any of the territories to which this Convention applies under paragraph (1) of Article 1, on the ownership, use or operation of a wireless or television set ;
 - (iii) in relation to the Republic of Austria, on the grant of permission (which shall be accorded upon application) to install or operate a wireless or television set.
- (4) The conditions referred to in paragraph (1) of this Article are that the consular officer or employee concerned shall
- (a) be a national of the sending State and not a national of the receiving State ;
 - (b) not be engaged in private occupation for gain in the territory ;
 - (c) be a permanent official of the sending State, or, if not a permanent official of that State, not have been ordinarily resident in the territory at the time of taking up his consular appointment.

Article 23

(1) The sending State, or a consular officer acting on its behalf, shall be permitted to import into the territory, or to re-export therefrom, all furniture, equipment, supplies and other articles, including vehicles, vessels and aircraft, intended for use or consumption in connexion with any of the official purposes of a consulate and, in

respect of all such articles, shall be exempt from all taxes or other duties of any kind which are, or may be, imposed or collected by the receiving State, or by any state, province, municipality or other sub-division of that State, upon or by reason of importation or re-exportation.

(2) (a) A consular officer who complies with the conditions set out in paragraph (4) of this Article shall also be permitted to import into the territory, and subsequently to re-export therefrom, all baggage and effects and other articles, including vehicles, vessels and aircraft, intended exclusively for his use or consumption or for the use or consumption of members of his family forming part of his household, and shall, in respect of all such articles, be exempt from all taxes or other duties of any kind which are, or may be, imposed or collected by the receiving State, or by any state, province, municipality or other sub-division of that State, upon or by reason of importation or re-exportation. This provision shall apply to all such articles which accompany him to his consular post, whether upon first arrival or upon any subsequent arrival, or which are consigned to him at his post and imported at any time while he is assigned to such post.

(b) A consular employee who complies with the conditions set out in paragraph (4) of this Article shall be accorded, in this matter, any privilege accorded to a member of the diplomatic mission of the sending State, who, holding rank lower than that of attaché, complies with the like conditions.

(3) It is, however, understood that

- (a) the receiving State may, as a condition to the granting of the exemptions provided for in this Article, require that a notification of any importation or re-exportation be given in such manner as it may prescribe ;
- (b) the exemptions provided for in this Article, being in respect of articles imported for official or personal use only, shall not extend to articles imported as an accommodation to others, or for sale or for other commercial purposes ; this understanding shall not, however, be regarded as precluding the importation of articles as samples of commercial products solely for display within a consulate, provided that they are subsequently re-exported or destroyed ;
- (c) the receiving State may determine that the exemptions provided for in this Article shall 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 leviable but for such exportation ;
- (d) nothing in this Article shall be construed so as to permit the entry into the territory of any article the importation of which is specifically prohibited by law except where the reasons for such prohibition are predominantly economic in nature ;

- (e) the receiving State retains the liberty to impose any tax or other similar charge which may be leviable under the law of the territory in the event of the sale or disposal of any article imported in conformity with this Article.

(4) The conditions referred to in paragraph (2) of this Article are that the consular officer or employee concerned shall

- (a) not be a national of the receiving State or a stateless person ;
(b) nor be engaged in private occupation for gain in the territory ;
(c) be a permanent official of the sending State or, if not a permanent official of that State, not have been ordinarily resident in the territory at the time of taking up his consular appointment.

PART V

GENERAL PROVISIONS

Article 24

(1) A consular officer shall be entitled to protect the nationals of the sending State and to defend their rights and interests. He may accordingly

- (a) concern himself with, *inter alia*, matters arising in connexion with their stay, taking of gainful occupation and enjoyment of civil rights in the territory and rights arising under any international agreement applicable between the High Contracting Parties ;
(b) interview, communicate with and advise any national of the sending State ;
(c) enquire into any incidents which have affected or may affect the interests of any such national ;
(d) aid any national of the sending State in relations with, or in proceedings before, the authorities of the territory, make arrangements for legal assistance for him, where necessary, and, at the request of the said authorities or with their consent, act as interpreter on behalf of such a national or designate an interpreter so to act.

(2) (a) For the said purposes, a consular officer shall be entitled to perform any of the functions referred to in this Convention.

(b) He may, in connexion with the performance of these functions, levy the fees prescribed by the sending State. Fees so levied shall be freely convertible into the currency of, and transferable to, the sending State.

(3) A consular officer may perform the said functions only within his own consular district, or, in the case of a consulate officer to whom the sending State has not

allotted a separate consular district, within the district of his superintending consular officer or head of post, as the case may be. However, upon notification to the authorities of the territory and in the absence of objection on their part, he may perform these functions outside the said district.

(4) The provisions of the Convention, specifying the functions which a consular officer may perform, are not exhaustive. A consular officer may also in his consular capacity perform other functions, provided that

- (a) they are in accordance with international law or practice relative to consular officers, as recognised in the territory; or
- (b) they involve no conflict with the law of the territory and the authorities of the territory raise no objection to their performance by the consular officer.

(5) Where any provision of the Convention entitles a consular officer to perform a function, it is for the sending State to determine whether and to what extent that function shall be performed by him.

(6) (a) A consular officer shall be entitled, in connexion with the performance of his functions, to apply to the local authorities within his consular district as also, where necessary, to the central authorities of the territory.

(b) The authorities concerned shall give a consular officer all requisite assistance and information.

(c) A consular officer may not, however, except in the absence of a diplomatic representative of the sending State, apply direct to the Foreign Office or the Bundesministerium für Auswärtige Angelegenheiten, as the case may be.

(7) A national of the sending State shall, at all times, be entitled to communicate with the appropriate consular officer and, unless subject to lawful detention, to visit him at his consulate.

(8) However, nothing in the provisions of this Article shall be construed so as to oblige the receiving State to recognise a consular officer as entitled to perform any of the functions referred to in the Convention, or otherwise to act on behalf of, or concern himself with, a national of the sending State who has become a political refugee, whether for reasons of race, nationality, political opinion or religion.

PART VI

GENERAL CONSULAR FUNCTIONS

Article 25

(1) Where any national of the sending State is confined in prison awaiting trial or is otherwise detained in custody within the territory, the appropriate consular officer shall be informed without delay by the authorities of the territory.

(2) Where any national of the sending State to whom the provisions of paragraph (1) of this Article apply is held for the purposes of any proceedings or interrogation, or is entitled to appeal under the ordinary rules as to the time within which an appeal may be made, the consular officer may, without delay, visit him and arrange legal representation for him. He may, likewise, conformably with the requirements of the proceedings, interrogation or appeal in question, converse freely and privately with the national and receive communications from him. Any such communication, or, if it is necessary to retain the original thereof, a copy of the communication, shall be forwarded without delay by the authorities of the territory to the consular officer.

(3) (a) Where a national of the sending State to whom the provisions of paragraph (1) of this Article apply is held in pursuance of a sentence, the consular officer shall be entitled to visit him, upon notification to the competent authority, and to exchange communications with him. Any such visit or communication shall be subject to the regulations in force in the institution in which the national is held, which regulations, shall, however, always permit the consular officer reasonable access to and opportunity of conversing with the national and provide reasonable facilities for the purposes of communication.

(b) It is understood, however, that in any case where further proceedings are taken against a national who is held in the circumstances contemplated in sub-paragraph (a) of this paragraph, the provisions of paragraph (2) shall be regarded as applicable.

Article 26

(1) A consular officer may

- (a) receive such declarations as may be required to be made under the law of the sending State relative to nationality ;
- (b) issue notices to, and receive declarations from, a national of the sending State in conformity with the law of that State relative to compulsory national service ; this provision, however, does not entitle a consular officer to affix posters elsewhere than inside the consulate ;
- (c) (i) register the birth or death of a national of the sending State ;
(ii) record any marriage of a national of the sending State solemnised under the law of the territory ;

it being understood that the registration of such a birth or death or the recording of such a marriage by a consular officer in no way exempts a private person from any obligation under the law 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 other travel documents to nationals of the sending State and other persons entitled to receive such passports and documents ;

- (e) grant visas and other appropriate documents to persons seeking to enter the sending State ;
- (f) issue, with regard to goods, certificates of origin and other necessary documents for use in the sending State.

(2) He may likewise perform notarial acts, draw up and receive declarations, and legalise, authenticate or certify signatures or documents, or translate 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 that 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 law of the receiving State.

Article 27

(1) A consular officer may take steps to safeguard the interests of a national of the sending State who, being a minor, has lost one or both parents or for any other reason is not under the legal protection of any person or authority. Any steps so taken shall be in conformity with the law of the sending State and shall be permissible under the law of the receiving State ; they may include, in the case of an Austrian consular officer, the making of arrangements, where necessary, for the appointment of a guardian.

(2) The provisions of paragraph (1) of this Article shall not, however, preclude the competent authorities of the territory from also taking such steps to safeguard the interests of any such national of the sending State as may be appropriate under the law of the territory.

(3) If it should come to the knowledge of the competent authorities of the territory that a national of the sending State to whom the provisions of this Article are applicable is present in the territory, they shall inform the appropriate consular officer accordingly and the consular officer shall likewise inform the said authorities if such information should reach him through any other channel.

Article 28

A consular officer may make arrangements for the treatment in a hospital and for the repatriation of a national of the sending State.

Article 29

A consular officer may further the interests of the sending State in relation to commercial and economic matters.

PART VII

ESTATES

Article 30

(1) Where a deceased person leaves property in the territory and a legal or equitable interest in such property (for instance, as a beneficiary under a will or as an executor or as a creditor of the estate or in the event of an intestacy) is held or claimed by a national of the sending State who is neither resident nor legally represented in that territory, a consular officer within whose district or within the district of whose superintending consular officer or head of post, as the case may be, the estate of the deceased person is being administered or, if no administration has been instituted, the 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.

(2) If, subsequently, such national becomes legally represented in the territory, the position of the consular officer 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, in any case where a grant of representation has already been made in favour of the consular officer in accordance with the provisions of paragraph (2) or of paragraph (3) of Article 31, 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.

(3) 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.

Article 31

(1) Where a consular officer has a right of representation under paragraph (1) of Article 30, he may take steps for the protection and preservation of the interests of the person whom he is entitled to represent. He may likewise 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 prior rights, has taken the necessary steps to assume possession thereof.

(2) Where under the law of the territory a grant of representation or order of a court is necessary for the purpose of enabling the consular officer so to protect or to take possession of the property, any grant or order which would have been made on

the application of the duly appointed attorney of the person whose interests are represented by the consular officer shall be made on the application of the consular officer. On *prima facie* evidence of the necessity for the immediate protection and preservation of the estate and of the existence of some person or persons with an interest which the consular officer has a right to represent, the court shall, if satisfied as to such necessity, make a provisional grant or order in favour of the consular officer, limited to the protecting and preserving of the estate until such time as a further grant of representation is made.

(3) (a) The consular officer may also fully administer the estate to the same extent as if he were the duly appointed attorney of the person whose interests he represents. Where under the law of the territory a grant of representation by a court (or, where a grant has already been made in accordance with paragraph (2) of this Article, a further grant) is necessary for this purpose, the consular officer shall, subject to the provisions of sub-paragraph (b) of this paragraph, have the same right to apply for and to obtain such a grant on his application as the duly appointed attorney of the person whose interests he represents.

(b) The court may, however, if it thinks fit

- (i) postpone the making of a grant on the application of a 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 ;
- (ii) order that the consular officer shall furnish reasonable evidence of the receipt of the assets by the beneficiary or, in the event of his being unable to furnish such evidence, repay or return those assets to the competent authority or person or, the consular officer having otherwise fully administered the estate, that the actual transmission of the assets to the beneficiary shall be effected through such other channels as it may direct.

Article 32

In addition, a consular officer may 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 law of the territory in which the estate is situated.

Article 33

(1) If a national of the sending State dies while travelling in or passing through the territory without being either domiciled or resident in that territory, the consular officer may, for the purpose of safeguarding the money and effects in the personal

possession of the deceased, take immediate custody thereof, subject to the right of the appropriate authorities of the territory to assume possession of such money and effects in any case where the interests of justice or the investigation of crime so require.

(2) Any right to retain possession of, or to dispose of, such money or effects shall be subject to the provisions of Articles 30 to 32 and to the law of the territory.

Article 34

If a consular officer exercises the rights referred to in Articles 30 to 33 with regard to an estate he shall to that extent, notwithstanding the provisions of paragraph (2) of Article 15 or of sub-paragraph (a) of paragraph (3) of Article 17, be subject to the jurisdiction of the courts of the territory in any proceedings arising in connexion therewith.

Article 35

(1) Where it is brought to the knowledge of the appropriate authorities that there is in the territory an estate

- (a) of a deceased person of any nationality in relation to which a consular officer may have a right to represent interests by virtue of the provisions of Articles 30 to 32 ;
or
- (b) of a national of the sending State in relation to which no person (other than an official of the receiving State), entitled to claim administration, is present or represented in the territory,

the said authorities shall forthwith so inform the competent consular officer.

(2) The consular officer shall likewise inform the authorities if such information should reach him through any other channel.

Article 36

In any case where, in pursuance of Articles 30 to 32, a consular officer receives from a court, agency or person, money or other property, the court, agency or person concerned shall be entitled to receive from him a valid discharge in respect of such money or property.

Article 37

(1) Without prejudice to the provisions of Articles 30 to 32 a consular officer may receive for transmission to a national of the sending State who is not present in the territory, from a court, agency or person, money or other property to which such

national is entitled as a consequence of the death of any person. Such money or property may include 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 it for transmission. If he does receive such money or property, he shall comply with any condition 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 or with regard to returning it in the event of his being unable to furnish such evidence.

(2) Money or other property may be paid, delivered or transferred to a consular officer 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 law of the territory.

(3) The consular officer shall acquire no greater rights in respect of any such money or property than the person whom he represents or on whose behalf he receives it would have acquired if the money or property had been paid, delivered or transferred to that person directly.

PART VIII

SHIPPING

Article 38

When a vessel of the sending State visits a port (which expression includes any place to which a vessel may come) in the receiving State

- (a) a consular officer may freely perform the functions enumerated in Article 39 without interference on the part of the authorities of the territory and, for this purpose, may, accompanied, if he so desires, by a member or members of his staff, proceed personally on board the vessel after she has received *pratique*; in any matter pertaining to the performance of these duties, he may invoke the assistance of the competent authorities of the territory and the requisite assistance shall be afforded by them except where in any particular case they have special reasons which would fully warrant it being refused;
- (b) the master and appropriate members of the crew may proceed to the consulate unless the authorities of the territory shall raise objection in any case involving unreasonable time or distance of travel; in the event of such objection being made, the authorities of the territory shall immediately inform the consular officer.

Article 39

(1) A consular officer may

- (a) question the master and any member of the crew of a vessel of the sending State, examine the vessel's papers, take statements with regard to her voyage and destination and generally facilitate the entry into, stay in and departure from, a port of the vessel ;
- (b) arrange for the engagement and discharge of the master or any member of the crew ;
- (c) without prejudice to the provisions of paragraph (1) of Article 41, settle disputes between the master and any member of the crew, including disputes as to wages and contracts of service ;
- (d) take measures for the maintenance of good order and discipline on board the vessel;
- (e) make arrangements for the treatment in a hospital and for the repatriation of the master or any member of the crew of the vessel ;
- (f) receive, draw up or execute any declaration or other document prescribed by the law of the sending State in connexion with, *inter alia*,
 - (i) the entry in the register of the sending State of any vessel not registered in that State ;
 - (ii) the removal from the register of the sending State of any vessel ;
 - (iii) the transfer from one owner to another of a vessel on the register of the sending State ;
 - (iv) the registration of any mortgage or charge on a vessel so registered ;
 - (v) any change of master in relation to a vessel so registered ;
 - (vi) the loss of, or any damage sustained by, a vessel so registered ;
- (g) take other measures for the enforcement of the law of the sending State relative to merchant shipping.

(2) In addition, a consular officer may aid the master or any member of the crew of a vessel of the sending State in any dealings with the authorities of the territory, and, for this purpose, shall be accorded by the said authorities all appropriate facilities, in particular as regards the making by him of arrangements for the provision of legal assistance or as regards his acting as an interpreter on behalf of any such master or member of the crew.

Article 40

(1) If a member of the crew of a vessel of the sending State deserts in a port of the receiving State, the appropriate authorities of the territory, at the request of a con-

sular officer, shall, consistently with the law of the territory, afford all assistance with a view to the recovery of the deserter.

(2) The provisions of paragraph (1) of this Article shall not, however, apply in relation to a seaman

- (a) who is a national of the receiving State ; or
- (b) in whose case there is reasonable cause for believing that his life or liberty will be endangered for reasons of race, nationality, political opinion or religion, in any country to which the vessel is likely to go ; or
- (c) who is accused or has been convicted of an offence (other than the desertion) cognisable under the law of the territory, until such time as he has been tried and, if convicted, has undergone any punishment which may have been awarded to him in respect of that offence.

Article 41

(1) The judicial authorities of the territory shall not entertain civil proceedings arising out of a dispute between the master and any member of the crew of a vessel of the sending State about wages or any contract of service, unless,

- (a) in the case of any territory to which this Convention applies under paragraph (1) of Article 1 a consular officer shall have been notified of the proceedings and shall not have raised objection ; and,
- (b) in the case of the Republic of Austria, all parties to the dispute so agree.

(2) Except at the request or with the consent of a consular officer, the judicial authorities of the territory shall not entertain prosecutions in respect of offences committed on board the vessel other than offences

- (a) by or against any person not being the master or a member of the crew or by or against any national of the receiving State ; or
- (b) involving the tranquillity or safety of the port or the law of the territory regarding customs, immigration, public health or the safety of life at sea ; or
- (c) for which a maximum sentence of imprisonment for not less than five years, or a more severe sentence, may be awarded under the law of the territory.

(3) The administrative authorities of the territory shall not intervene in relation to any matter occurring on board the vessel except

- (a) where a person has been charged with having committed an offence on board in respect of which the judicial authorities of the territory may, in conformity with

- sub-paragraph (a), (b) or (c) of paragraph (2) of this Article, entertain a prosecution, or where there is reasonable cause for believing that such an offence is about to be, or is being or has been committed on board ; or
- (b) where any member of the crew is detained in custody in any of the circumstances specified in sub-paragraph (a) or (b) of paragraph (4) of this Article ; or
 - (c) where any other person is detained on board against his will ; the provisions of this sub-paragraph shall not, however, be construed so as to authorise any intervention which would be contrary to international law ; or
 - (d) for the purpose of taking any action or making any examination which they consider necessary in relation to any of the matters specified in sub-paragraph (b) of paragraph (2) of this Article ; or
 - (e) with the consent of a consular officer.

(4) The authorities of the territory shall not treat as unlawful the detention in custody on a sea-going vessel of any member of the crew for disciplinary offences, unless

- (a) his detention is unlawful under the law of the sending State or is accompanied by unjustifiable severity or inhumanity ; or
- (b) there is reasonable cause for believing that his life or liberty will be endangered, for reasons of race, nationality, political opinion or religion, in any country to which the vessel is likely to go.

(5) (a) If, for the purpose of taking action in accordance with the foregoing provisions 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 appropriate 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 his representative to be present. If the consular officer has not been present or represented he shall, upon request, be provided by the authorities of the territory with full information with regard to what has taken place.

(b) (i) The provisions of this paragraph shall not, however, apply to any routine examination by the said authorities with regard to customs, immigration or public health or the safety of life at sea, nor to the detention of the vessel or of any portion of her cargo arising out of civil proceedings in the courts of the territory.

(ii) Nor shall they be construed so as to require the authorities of the territory to permit in circumstances where this is not permissible under the law of the territory a consular officer or his representative to be present at the questioning of any person on board the vessel.

Article 42

(1) Subject to the consent of the master of the vessel, a consular officer may inspect 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 that State as a condition of entry of such vessel into its ports, and to furnish the competent authorities of that State with such information with regard to sanitary or other matters as the said authorities may require.

(2) In exercising the right set out in paragraph (1) of this Article a consular officer shall act with all possible despatch.

Article 43

(1) If a vessel of the sending State is wrecked in the receiving State or if any article forming part of the cargo of a wrecked vessel of a third State, being the property of a national of the sending State, is found on or near the coast of the receiving State or is brought into a port of that State, the authorities of the territory shall as soon as possible inform the appropriate consular officer accordingly.

(2) (a) In relation to a wrecked vessel of the sending State the authorities of the territory shall take all practicable measures for the preservation of the vessel, of the lives of persons on board and of the cargo and other property on board, together with articles belonging to the vessel or forming part of her cargo which have become separated from the vessel, and for the prevention and suppression of plunder or disorder on the vessel. Such measures shall, where appropriate, be taken in collaboration with the master of the vessel and with the consular officer or his representative.

(b) If the vessel is wrecked within a port or constitutes a navigational hazard within the internal or territorial waters of the receiving State, the authorities of the territory may order any measure which they consider necessary to be taken with a view to avoiding any damage or obstruction that might otherwise be caused by the vessel to the approaches or the facilities of the port or to other vessels.

(c) (i) Where the wrecked vessel or any article belonging thereto has been found on or near the coast of the receiving State or brought into a port of that State and neither the master of the vessel, the owner, his agent nor the underwriters concerned is present or in a position to make arrangements for the custody or disposal of the said vessel or article, the consular officer shall be deemed to be authorised to make, on behalf of the owner of the vessel, the same arrangements as the owner himself, if he had been present, could have made for such purposes ;

(ii) the provisions of sub-paragraph (c) (i) of this paragraph shall also apply to any article forming part of the cargo of the vessel and being the property of a national of the sending State.

(3) Where any article forming part of the cargo of a wrecked vessel of any flag (not being a vessel of either High Contracting Party) is the property of a national of the sending State and is found on or near the coast of the receiving State or is brought into a port of that State, and neither the master of the vessel, the owner of the article, his agent nor the underwriter concerned is present or in a position to make arrangements for the custody or disposal of the said article, the consular officer shall be deemed to be authorised to make, on behalf of the owner, such arrangements as the owner himself, if he had been present, could have made for such purposes.

(4) (a) The authorities of the territory shall not, where the provisions of paragraph (1) of this Article are applicable to

- (i) a wrecked vessel of the sending State, her cargo or other property on board ;
- (ii) an article forming part of the cargo of a wrecked vessel of a third State and being the property of a national of the sending State ;

levy, in relation thereto, any charge other than charges of the same kind and amount as would be levied in similar circumstances in relation to a wrecked vessel of the receiving State.

(b) The provisions of sub-paragraph (a) of this paragraph shall not, however, preclude the authorities of the territory from levying any customs duty or other tax or charge, leviable upon or by reason of the importation of goods into the territory, on cargo, equipment and fittings, stores or other articles on board the wrecked vessel, which have been brought ashore for use or consumption in the territory. They may also, if they think fit, require security for the protection of the revenue in relation to such goods temporarily stored in the territory.

Article 44

(1) The competent authority of the receiving State shall, if the master or any member of the crew of a vessel of that State, being a national of the sending State and not being a national of the receiving State, dies afloat or ashore in any country, promptly transmit to the appropriate consular officer copies of the accounts which may be received by it with respect to the wages and effects of the deceased master or seaman (hereinafter referred to as "the deceased"), together with any particulars at its disposal likely to facilitate the tracing of persons legally entitled to succeed to his property.

(2) In any case where the value of the wages and effects of the deceased, together with any other property of his which comes into the control of the competent authority, does not exceed a sum to be fixed by mutual agreement between the High Contracting Parties, the said authority shall deliver the wages, effects and property of the deceased under its control (hereinafter referred to as "the assets") to the consular officer.

- (3) However, before so delivering the assets, the competent authority may
- (a) meet out of the assets any claim against the estate of the deceased of any person resident elsewhere than in the sending State which it considers to be legally due ; and
 - (b) satisfy itself that there is some person resident in the sending State entitled to succeed to the property of the deceased ; if the authority is not so satisfied, it shall, before delivering the assets to any person considered to be entitled to succeed to the property of the deceased, notify the consular officer, stating the person to whom it is proposed to deliver them, in order to give the consular officer a reasonable opportunity to furnish information, including information regarding the existence of other claims on the estate, of which the competent authority may be unaware and which may be relevant for the final decision as to the person entitled to receive the assets.

(4) Any claim against the estate of the deceased which is received by the competent authority of the receiving State after delivery of the assets to the consular officer shall be referred to him for transmission, where necessary, to the competent authority of the sending State.

(5) The provisions of paragraphs (2), (3) and (4) of this Article shall not apply in the case of any estate where, a grant of representation from a court in the receiving State being required, the competent authority delivers the assets under its control to a person who has obtained such a grant. However, in any case where the recipient of such a grant is some person other than the consular officer, the competent authority shall inform the consular officer accordingly.

(6) For the purposes of this Article, the expression "competent authority" shall denote,

- (a) in relation to any of the territories to which this Convention applies under paragraph (1) of Article 1, the Ministry of Transport of the United Kingdom ;
- (b) in relation to the Republic of Austria, the Federal Ministry of Justice.

PART IX

FINAL PROVISIONS

Article 45

Any dispute which may arise between the High Contracting Parties as to the interpretation or application of any of the provisions of this Convention or of the annexed Protocol¹ shall, at the request of either of them, be referred to the International Court of Justice at The Hague, 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 46

(1) Each High Contracting Party shall, before the entry into force of this Convention, notify the other which parts of its territories are to be regarded as territorial units for the purposes of all or some of the Articles of the Convention, and, in the latter case, for the purposes of which Articles they are to be so regarded.²

(2) Each High Contracting Party shall, at any time after the entry into force of the Convention, be free to modify the arrangements made under paragraph (1) of this Article. Any such modification, or further modification, by either Party shall be effected by means of a notification to the other Party and shall come into operation six months after the date of the receipt of the said notification by the latter Party.

(3) Any notification in pursuance of this Article shall be made in writing and through the diplomatic channel.

Article 47

(1) This Convention shall be ratified and the instruments of ratification shall be exchanged in London as soon as possible. It shall enter into force on the thirtieth day after the date of exchange of the instruments of ratification.

(2) The Convention shall continue in force until six months from the date on which either High Contracting Party shall have given to the other notice of termination, such notification to be made in writing and through the diplomatic channel.

¹ See p. 140 of this volume.

² The following information was provided by the Government of the United Kingdom: The Austrian Government has been notified that 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 for the purposes of the Convention, subject to the proviso that, for the purposes of Article 22, 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 purpose of Part VII, England, Wales, Scotland, Northern Ireland, the Channel Islands and the Isle of Man are each to be regarded as a separate territory.

IN WITNESS WHEREOF, the above-mentioned Plenipotentiaries have signed this Convention and affixed thereto their seals.

DONE, in duplicate, at Vienna, this 24 day of June 1960, in the English and German languages, both texts being equally authoritative.

For Her Majesty :

[L.S.] Selwyn LLOYD

For the Federal President
of the Republic of Austria :

[L.S.] Bruno KREISKY

SCHEDULE RELATIVE TO SUB-PARAGRAPH (a)
OF PARAGRAPH (4) OF ARTICLE 2

The categories of nationals referred to in sub-paragraph (a) of paragraph (4) of Article 2 are as follows :

- (1) British subjects who are citizens of the United Kingdom and Colonies ;
- (2) British subjects who are citizens of the Federation of Rhodesia and Nyasaland ;
- (3) British subjects who are citizens of the State of Singapore ;
- (4) British subjects who, being citizens of the Irish Republic, have made a claim to retain the status of a British subject under Section 2 of the British Nationality Act, 1948 ;
- (5) Persons who, under Section 13 (1) of the British Nationality Act, 1948, are British subjects without citizenship ;
- (6) Persons who are British protected persons as defined by the British Protectorates, Protected States and Protected Persons Order in Council, 1949, as subsequently amended.

PROTOCOL OF SIGNATURE

At the time of signing the Consular Convention of this day's¹ date between the United Kingdom of Great Britain and Northern Ireland and the Republic of Austria, the undersigned Plenipotentiaries, being duly authorised thereto, have agreed as follows :

(1) The provisions of Article 16 and of paragraph (2) of Article 41 of the Consular Convention shall not come into operation until such time as each High Contracting Party shall have given notice to this effect to the other.

(2) The sum referred to in paragraph (2) of Article 44 shall, unless and until further arrangements are made for this purpose, be fixed at £100 sterling, in relation to any of the territories to which the Consular Convention applies under paragraph (1) of Article 1, and at 7,000 schillings, in relation to the Republic of Austria.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed this Protocol and affixed thereto their seals.

DONE, in duplicate, at Vienna, this 24 day of June 1960, in the English and German languages, both texts being equally authoritative.

For Her Majesty :

[L.S.] Selwyn LLOYD

For the Federal President
of the Republic of Austria :

[L.S.] Bruno KREISKY

¹ See p. 80 of this volume.

EXCHANGE OF NOTES

I

*Her Majesty's Ambassador at Vienna to the Austrian Federal Minister
for Foreign Affairs*

BRITISH EMBASSY

Vienna, June 24, 1960

1921/60

Monsieur le Ministre,

In connexion with the Consular Convention of to-day's¹ date between our two countries I have the honour, upon the instructions of Her Majesty's Principal Secretary of State for Foreign Affairs, to inform you, for the information of the Government of the Republic of Austria, that, in the view of Her Majesty's Government in the United Kingdom, the following principles are applicable to consulates and consular officers under the general law of nations :

- (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 any territory of a third State which comes 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 any territory of a third State 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, provided that they are nationals of that State and are not nationals of the latter State, and provided also that their names have been duly notified through the appropriate channel, shall, together with all members of their families forming part of their households, 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 personal effects and furniture or, if they so prefer, to deposit such documents and articles in safe custody in the territory. In either case their archives and official papers shall be inviolable and all practicable steps shall be taken to safeguard their personal effects and furniture.

I shall be grateful if Your Excellency will be good enough to confirm that the Government of the Republic of Austria concur in the views set out above.

I have, &c.

James BOWKER

¹ See p. 80 of this volume.

in sichere Verwahrung zu geben. In beiden Fällen sind die Archive und die amtlichen Schriftstücke unverletzlich ; alle erforderlichen Massnahmen zur Sicherung der persönlichen Habe und Möbel sind zu treffen.“

Ich beehre mich zu bestätigen, dass die Österreichische Bundesregierung die in den oben angeführten Grundsätzen zum Ausdruck kommende Ansicht teilt.

Empfangen Sie, etc.

KREISKY

[TRANSLATION¹ — TRADUCTION²]

THE FEDERAL MINISTER FOR FOREIGN AFFAIRS

Vienna, June 24, 1960

Dear Mr. Ambassador,

I have the honour to acknowledge the receipt of your Note No. 1921/60 of the 24th of June, 1960, which in the German language reads as follows :

[*See note I*]

I have the honour to confirm that the Austrian Federal Government concurs in the views expressed in the above principles.

Please accept, &c.

KREISKY

¹ Translation by the Government of the United Kingdom.

² Traduction du Gouvernement du Royaume-Uni.