

No. 8198

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

Consular Convention (with schedule and Protocols of Signature). Signed at Madrid, on 30 May 1961

Exchange of notes constituting an agreement concerning the estates of deceased merchant seamen referred to in article 51 (2) of the above-mentioned Convention. Madrid, 8 April 1963

Official texts: English and Spanish.

Registered by the United Kingdom of Great Britain and Northern Ireland on 20 May 1966.

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

Convention consulaire (avec annexe et Protocoles de signature). Signée à Madrid, le 30 mai 1961

Échange de notes constituant un accord sur les successions des gens de mer décédés mentionnées à l'article 51, paragraphe 2, de la Convention susmentionnée. Madrid, 8 avril 1963

Textes officiels anglais et espagnol.

Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 20 mai 1966.

No. 8198. CONSULAR CONVENTION¹ BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND SPAIN. SIGNED AT MADRID, ON 30 MAY 1961

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 His Excellency the Head of the Spanish State

Being desirous of regulating the rights, privileges and immunities of the consular officers of each High Contracting Party in the territories of the other and of thus facilitating the protection of their respective subjects and national interests;

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 Britannic Majesty "):

For the United Kingdom of Great Britain and Northern Ireland :

The Right Honourable the Earl of Home, P.C., Her Britannic Majesty's Principal Secretary of State for Foreign Affairs;

His Excellency the Head of the Spanish State :

For Spain :

Excmo. Señor Don Fernando María Castiella y Maíz, Minister for Foreign Affairs;

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

PART I

APPLICATION AND DEFINITIONS

Article 1

This Convention applies

¹ Came into force on 12 April 1963, the thirty-first day after the exchange of the instruments of ratification which took place at London on 12 March 1963, in accordance with article 56 (1), with the exception of article 17 and of paragraph (2) of article 47 (see footnote 1, p. 236 of this volume).

- (1) on the part of Her Britannic Majesty, to the United Kingdom of Great Britain and Northern Ireland and to all territories for whose international relations Her Majesty's Government in the United Kingdom are responsible;
- (2) on the part of His Excellency the Head of the Spanish State, to all the national territory of Spain.

Article 2

For the purposes of this Convention

(1) (a) 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;

(b) 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;

(c) 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 54;¹

(d) the term "national" means,

(i) in relation to Her Britannic Majesty, all British subjects and British protected persons belonging to any of the categories specified in the Schedule to the Convention, together with, where the context permits, any juridical entity duly created under the law of any of the territories referred to in paragraph (1) of Article 1;

(ii) in relation to the Head of the Spanish State, all Spanish subjects and, where the context permits, any juridical person duly created under the law of Spain;

(e) the term "vessel" means, for the purposes of Part VII of the Convention,

(i) in relation to Her Britannic Majesty, any ship or craft (not being a ship of war) registered at a port in any of the territories referred to in paragraph (1) of Article 1;

¹ See footnote 1, p. 230 of this volume.

(ii) in relation to the Head of the Spanish State, any ship or craft (not being a ship of war) registered in Spain;

(f) (i) the term “consular officer” means any person who, having been duly appointed as such by the sending State, holds from the appropriate authorities of the receiving State a valid *exequatur* or other equivalent authorisation (including a provisional authorisation) to act in this capacity;

(ii) the term applies alike to consuls-general, consuls, vice-consuls and consular agents;

(iii) a consular officer may be a career officer (*consul missus*) or an honorary officer (*consul electus*); he may not, however, be regarded as a career officer unless he fulfils the conditions specified in paragraph (2) of this Article;

(g) the term “consular employee” means any person who, not being a consular officer, is employed in a subordinate capacity in the work of a consulate, provided that his name has been duly communicated in accordance with the provisions of Article 5 to the appropriate authorities of the receiving State. The term shall not, however, apply to any driver or any person employed solely on domestic duties at or in the upkeep of the consular premises;

(h) the term “consular official” means a consular employee who fulfils the conditions specified in paragraph (2) of this Article;

(i) 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;

(j) the term “consular archives” means the official correspondence, documents and office books, together with any furniture intended exclusively for their protection and preservation;

(k) the term “grave offence” means, for the purposes of Article 17 and paragraph (2) of Article 47,

(i) in relation to Her Britannic Majesty, an offence for which a maximum sentence of imprisonment for not less than five years, or a more severe sentence, may be awarded;

(ii) in relation to the Head of the Spanish State, an offence for which a penalty greater than sentence of six years’ privation of liberty may be awarded.

(2) The conditions referred to in sub-paragraph (f) (iii) and (h) of paragraph (1) are that the consular officer or consular employee concerned shall :

(i) be a national of the sending State;

- (ii) not be permitted to engage in private occupation for gain in the receiving State;
- (iii) be a permanent employee of the sending State or, if not a permanent employee of that State, not have been ordinarily resident in the territory at the time of taking up his appointment;
- (iv) be in receipt of regular emoluments from the sending State.

PART II

APPOINTMENTS AND DISTRICT

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 so agrees.

(2) The sending State may

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

(3) The receiving State may object to the inclusion within a consular district of any area

- (a) which forms part of the territory of a third State;
 - (b) which does not form part of a consular district of a third State;
 - (c) which is not open to the official commercial representatives of a third State.
- Any such objection shall be made through the diplomatic channel.

(4) The sending State shall be at liberty to allocate to each of its consular posts the number of consular officers and employees necessary for the purposes of the work of that post.

Article 4

(1) (a) The diplomatic mission of the sending State shall notify the Foreign Office or the Ministry of Foreign Affairs, as the case may be, of the appointment of a consular officer to a consulate, and shall transmit his commission or other document of appointment.

(b) The commission or other document shall specify the full name and rank of the officer concerned and the limits of the consular district in which he is to perform his duties. The diplomatic mission shall state whether he is a career or an honorary officer.

(c) 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.

(2) Upon the receipt of the commission or other document of appointment, the receiving State shall grant an *exequatur* or other authorisation free of charge and without delay. The receiving State shall not be considered to have admitted a consular officer to the exercise of his duties and to the benefits of this Convention pending the grant of an *exequatur* or other authorisation. Where necessary, however, a provisional authorisation shall be granted.

(3) The *exequatur* or other authorisation (including a provisional authorisation) shall not be refused without good cause.

(4) The receiving State shall without delay inform the competent authorities of the consular district concerned of the name, rank and appointment of the consular officer in respect of whom the *exequatur* or other authorisation (including a provisional authorisation) has been granted and shall state whether he is a career or an honorary consular officer. The said authorities shall thereupon take the necessary steps to ensure that he is given the facilities required for the performance of his consular duties and receives the rights, privileges and immunities due to a consular officer under the Convention or otherwise.

(5) The receiving State may revoke the *exequatur* or other authorisation (including a provisional authorisation) of a consular officer whose conduct has given serious cause for complaint. The reason for such revocation shall, upon request, be communicated to the sending State through the diplomatic channel.

Article 5

(1) The competent authority of the receiving State shall be notified of the appointment of a consular employee and shall be kept informed of his private address.

(2) A consular employee shall be considered to have been recognised in this capacity by the authorities of the territory, unless the said authorities expressly withhold recognition or withdraw it at any time.

Article 6

(1) For the purpose of ensuring the uninterrupted operation of the consulate, the sending State shall be entitled, if a consular officer dies, is absent or is otherwise prevented from fulfilling his duties, to appoint a temporary successor. 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 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 at the seat of Government. 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 recognised under the Convention.

PART III

LEGAL RIGHTS AND IMMUNITIES

Article 8

(1) The sending State, either in its own name or in the name of one or more natural or juridical persons expressly 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 purpose of establishing or maintaining a consulate or a residence for a consular officer or for any other purpose (to which the receiving State does not object) connected with the operation of the consulate;
- (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 pre-requisite 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 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.

Article 9

(1) There may be placed, on the outer enclosure and on the outer wall of the building in which a consulate is installed, the coat-of-arms or consular shield of the sending State, together with an appropriate inscription designating the consulate in the official language or languages of that State. Such a coat-of-arms, consular shield and inscription may also be placed on or by the entrance door to the consulate.

(2) The flag of the sending State and its consular flag may be flown at the consulate and also at the residence of a consular officer.

(3) In addition, the coat-of-arms and consular shield of the sending State may be displayed and its flag and consular flag may be flown on the vehicles, vessels and aircraft which a consular officer employs in the exercise of his duties.

(4) 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 Minister of Foreign Affairs in the case of any territory to which the Convention applies under paragraph (2) of the said Article. 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. The provisions of this paragraph shall not apply to a consular office in the charge of a consular officer who is a national of the receiving State or who is not a national of the sending State.

(5) 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 (4) of this Article.

(6) If an entry is made into a consular office pursuant to paragraph (4) or paragraph (5) of this Article, the inviolability of the consular archives, as recognised in paragraph (1) of Article 11, shall be respected.

(7) 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 10

(1) The receiving State shall treat as immune from all forms of requisitioning and billeting 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 career consular officer or consular official of the sending State;
- (d) the personal effects, vehicles, vessels and aircraft of a career consular officer or consular official or of members of their families forming part of their household.

(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 career consular officer or consular official 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 career consular officer or consular official 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 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) (a) of Article 8.

Article 11

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

Article 12

(1) A consular officer may communicate with his Government, with his superintending diplomatic mission and with other consulates of the sending State situated in the receiving State, by post, telegraph, telephone or other public services, and may send and receive official correspondence by sealed bags, pouches and other containers, and may in both cases use secret language. When, however, the receiving State is involved in hostilities such right of communication and correspondence may be suspended or restricted

- (a) with the diplomatic mission if it is situated outside the territory of the receiving State; and
- (b) with any consulate of the sending State situated elsewhere than in the same territory of the receiving State as the consulate of the consular officer.

(2) The official consular correspondence referred to in paragraph (1) of this Article shall be inviolable and the authorities of the receiving State shall not examine or detain it. The said authorities may, however, when they have serious reasons for so doing, request that such sealed bags, pouches or other containers should be opened in their presence by an authorised representative of the sending State, with a view to satisfying themselves that they do not contain anything other than official correspondence.

Article 13

(1) A consular officer, as an official agent of the Government of the sending State, shall be entitled to the special respect and consideration of all authorities and 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 and consular residences of the sending State and

of the lives and safety of the consular officers and employees of that State, as also of members of their families forming part of their household.

(3) The provisions of paragraph (2) of this Article shall not oblige the receiving State to take any special measure in relation to any person who, being a national of the said State, is not also a national of the sending State.

Article 14

(1) A consular officer, as also a consular official, provided that in either case he is not a national of the receiving State, shall, together with his wife and minor children forming part of his household, 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) The competent authorities of the receiving State shall, on request, issue and hand over an appropriate document to any person to whom this Article applies.

(3) Nothing in paragraph (1) of this Article shall be so construed as to derogate from the provisions of paragraph (5) of Article 4 or of paragraph (2) of Article 5.

Article 15

A career consular officer, as also a consular official, provided that in either case 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.

Article 16

(1) Except where the provisions of this Convention provide to the contrary, a consular officer or employee shall 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) Except with the consent of the sending State signified through the diplomatic channel, a consular officer or employee shall not be held liable, in proceedings 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 recognised under the Convention.

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

- (a) arising out of a contract concluded by him in which he did not contract expressly or impliedly as agent of his Government; or
- (b) instituted by a third party in respect of damage caused by a motor vehicle (including any trailer), vessel or aircraft belonging to him.

(4) Any vehicle, vessel or aircraft belonging to a consular officer or employee shall be adequately insured against third party risks and any such contract of insurance shall be in conformity with the law of the territory.

Article 17

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

- (a) where he is detected in the course of committing an offence;
 - (b) in the case of a grave offence as defined in sub-paragraph (k) of paragraph (1) of Article 2;
 - (c) in the case of any other offence, for the purpose of standing trial, provided that such detention shall only continue during the progress of proceedings in court, exclusive of any adjournments thereof;
- (d) with the consent of the sending State signified through the diplomatic channel.

(2) Nothing in the provisions of paragraph (1) of this Article shall be so construed as to preclude a career consular officer from undergoing his sentence in the event of conviction.

Article 18

(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 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) However, a consular officer or employee may decline

- (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 judgement 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.

(4) The provisions of sub-paragraph (a) of paragraph (3) of this Article shall not be so construed as to entitle a consular officer or employee to refuse to give evidence in any proceedings to which the provisions of paragraph (3) of Article 16 apply or to refuse to produce from the consular archives any document or object relating exclusively to the subject-matter of such proceedings.

PART IV

FINANCIAL PRIVILEGES

Article 19

The sending State, or any natural or juridical person acting expressly on its behalf, 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 thereof, in respect of

- (a) ownership, occupation, construction or adaptation of land, buildings, parts of buildings or appurtenances used exclusively for any of the purposes specified in paragraph (1) (a) of Article 8 with the exception of taxes or other charges 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, construction or adaptation of immovable property for any of the said purposes;
- (c) the ownership, possession or use of movable property for consular purposes.

Article 20

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

- (a) any fee received on behalf of the sending State as 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, provided that he is not a national of the receiving 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 any state, province, municipality or other sub-division thereof, by reason of acts performed by a consular officer or employee in his official capacity and falling within the sphere 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 in whole or in part be passed on to the sending State or the consular officer or employee.

Article 21

(1) Subject to the provisions of paragraph (2) of this Article, a career consular officer or consular official, provided that in either case he is not a national of the receiving State, 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 thereof.

- (2) The provisions of paragraph (1) of this Article shall not apply to
- (a) taxes or other similar charges of any kind imposed upon or in connexion with importation or re-exportation, exemption from which is dealt with exclusively in Article 22;
 - (b)
 - (i) taxes imposed or collected on the ownership or occupation of immovable property situated within the territory;
 - (ii) taxes on income derived from other sources within the territory;
 - (iii) taxes imposed or collected within the territory on the passing of property on death, whether the consular officer or official concerned is the person who dies or the person to whom the property passes on death;
 - (iv) taxes on transactions or instruments effecting transactions;
 - (v) excise, consumption or similar taxes, with the exception of any such tax imposed or collected on the ownership, use or operation of any vehicle, vessel, aircraft, wireless or television set;
 - (c) 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, in whole or in part, be passed on to the consular officer or official concerned. When, however, a career consular officer or consular

official is entitled to income derived from sources outside the territory but payable to him, or collected on his behalf, by a banker or other agent within the territory, he shall be entitled to receive a refund in respect of any tax on profits or income which the said banker or agent may have been obliged to deduct.

Article 22

(1) (a) The sending State or the consular officer in charge of a post acting on behalf of that State may import into the territory, and subsequently re-export therefrom, office supplies, furniture and equipment intended exclusively for the official purposes of a consulate.

(b) A career consular officer or consular official, provided that in either case he is not a national of the receiving State, may likewise import into the territory, and subsequently re-export therefrom, furniture and personal effects intended exclusively for his own use or for the use of a member of his family forming part of his household. The consular officer or official concerned may avail himself of this privilege alike in connexion with his installation on taking up his post, throughout the period that he is assigned to or employed at such post and in connexion with his departure from the territory on relinquishing that post.

(c) Articles imported into or re-exported from the territory in conformity with sub-paragraph (a) or (b) of this paragraph shall be exempt from all taxes or other duties of any kind which are or may be imposed or collected upon or in connexion with importation or re-exportation by the receiving State or any state, province, municipality or local sub-division thereof.

(2) The application of paragraph (1) of this Article to articles other than those specified therein, including vehicles, vessels and aircraft, shall be the subject of special arrangements to be concluded from time to time between the High Contracting Parties.

(3) It is, however, understood that

- (a) the receiving State may, as a condition to the granting of the exemptions provided in this Article, require that a notification of any importation or re-exportation be given in such manner as the relevant internal regulations may prescribe;
- (b) the exemptions provided 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 limitation 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 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;
- (d) the receiving State may determine that the exemptions provided in this Article shall not apply in respect of the re-importation of articles grown, produced or manufactured in the territory which have been exported therefrom without payment or upon repayment of taxes or duties which would have been leviable but for such exportation;
- (e) nothing in this Article shall be so construed as to permit the entry into the territory of any article the importation of which is specifically prohibited by law.

PART V

PROTECTION OF NATIONALS AND NATIONAL INTERESTS

Article 23

(1) A consular officer, for the purpose of fulfilling his primary function of advising, helping and protecting the nationals of the sending State, and of defending their rights and interests, shall be entitled, *inter alia*, to

- (a) concern himself with matters arising in connexion with their stay in the territory, their taking of gainful occupation therein and their enjoyment of civil and labour rights and of rights arising under international usage or international agreements 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 national of the sending State shall at all times be entitled to communicate with the competent consular officer and visit him at the consulate. In the case of a national held in detention, however, the provisions of Article 26 shall apply.

Article 24

(1) A consular officer shall be entitled to aid and advise nationals of the sending State, in regard to their rights under the Social Security legislation of the receiving State. For this purpose he may

- (a) assist such nationals in their relations with the competent authorities of the territory;
- (b) receive on behalf of such nationals resident elsewhere than in the territory payments due to them under the said legislation.

(2) In the case of conflict between the provisions of paragraph (1) of this Article and the provisions of any special agreement relative to Social Security in force between the High Contracting Parties, those of the latter agreement shall prevail.

Article 25

A consular officer may, where necessary, arrange for the treatment in hospital and the repatriation of a national of the sending State.

Article 26

(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, interview the national privately, converse freely with him in any language which he may choose 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 purpose 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 so far as concerns any matter relating to such proceedings.

Article 27

A consular officer may

- (a) keep a register of nationals of the sending State;
- (b) receive such declarations as may be required to be made under the law of the sending State relative to nationality, and issue certificates in pursuance of that law;
- (c) in accordance with the law of the sending State relative to service in its armed forces, register for such service nationals of the sending State who voluntarily submit to these formalities, issue notices to and receive declarations from these nationals;
- (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 or other similar documents for use in the sending State, or visa such certificates and documents.

Article 28

(1) To the extent permissible under the law of the territory a consular officer may perform the notarial functions with which he is charged under the law of the sending State.

(2) In this connexion and to the same extent he may

- (a) authorise, in his notarial capacity, and take custody of (*protocolizar*) the will of a national of the sending State;
- (b) legalise, authenticate, or certify signatures or documents and translate documents;
- (c) authorise, in his notarial capacity, documents of all kinds required by a person of any nationality for use in the sending State or under the law in force in that State and issue copies of such documents;
- (d) draw up and receive declarations and administer any oath or affirmation which may be required under the law of the sending State.

(3) In addition, a consular officer may consistently with international usage perform these functions in connexion with documents required by a national of the sending State for use elsewhere than in that State, but it is understood that this provision involves no obligation on the authorities of the receiving State to

recognise the validity of notarial and other acts performed by a consular officer in conformity with the law of the sending State.

(4) The receiving State shall designate the authority competent to authenticate the signature of a consular officer for the purpose of recognition by other authorities of the receiving State, and shall take the necessary measures to ensure that specimens of the signature are deposited with the said authority.

Article 29

(1) A consular officer may register

- (a) the birth or death of a national of the sending State ;
- (b) marriages solemnized under the law of the territory, provided that at least one of the parties is a national of the sending State;
- (c) marriages solemnized in conformity with paragraph (2) of this Article;
- (d) any other circumstances affecting the civil status of a national of the sending State and requiring to be registered under the law of that State.

(2) A consular officer may solemnize marriages, provided that at least one of the parties is a national of the sending State, that neither is a national of the receiving State and that such solemnization is permissible under the law of the territory.

(3) A consular officer may receive and register declarations of recognition of illegitimate children and of legitimisation made by a national of the sending State, in accordance with the law of the sending State.

(4) Nothing in the provisions of paragraphs (1), (2) and (3) of this Article shall exempt any private person from any obligation imposed by the law of the territory with regard to the notification and registration with the authorities of the territory of any matter dealt with in those provisions.

(5) Where it is brought to the knowledge of the authorities of the territory that a birth, death or marriage of a national of the sending State has taken place in the territory, the said authorities shall so inform the competent consular officer.

Article 30

(1) A consular officer may take the necessary measures to safeguard the interests of a national of the sending State who, being a minor, has lost one or both parents or who, for any other reason, is not under the legal protection of any person or authority. Any measures so taken shall be in conformity with the law of the sending State and not contrary to the law of the receiving State; these may include, in the case of a consular officer of Spain, the making of ar-

rangements for the appointment of a guardian (*tutor*) and the institution of a guardianship (*tutela*).

(2) Nothing in the provisions of paragraph (1) of this Article shall, however, preclude the competent authorities of the territory from taking such steps as may be appropriate under the law of the territory to safeguard the interests of any national of the sending State.

(3) If it comes to the knowledge of the authorities of the territory that a national of the sending State to whom the provisions of paragraph (1) of this Article may apply is present in the territory, the said authority shall so inform the competent consular officer. The consular officer shall likewise notify the authorities concerned if such information should reach him through any other channel.

(4) To the extent permitted under the law of the territory, a consular officer may perform any other functions with which he is charged under the law of the sending State in the matter of voluntary jurisdiction, for example, the opening of wills or empowering the substitution of persons.

Article 31

A consular officer may service judicial documents or take evidence on behalf of the Courts of the sending State in the manner permitted under any special agreement on this subject between the High Contracting Parties or otherwise not inconsistent with the law of the territory. He may likewise authenticate the translation of the documents in question.

Article 32

A consular officer may further the interests of the sending State in relation to

- (a) commerce;
- (b) professional, educational, artistic and scientific matters;
- (c) emigration and immigration.

PART VI

ESTATES AND TRANSFERS OF PROPERTY

Article 33

(1) Where a deceased person leaves property in the territory and a legal or equitable interest in such property as an executor, as a beneficiary under a will, as a creditor of the estate, in the event of an intestacy or by any other

title 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 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) The provisions of this Article shall apply whatever the nationality of the deceased person and irrespective of the place of his death.

Article 34

(1) Where a consular officer has a right of representation under paragraph (1) of Article 33 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 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 estate or 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.

Article 35

(1) A consular officer may similarly fully administer the estate to the same extent as if he were the duly appointed attorney of the person whose interests he represents.

(2) Where under the law of the territory a grant of representation or an order of a court is necessary for this purpose, the consular officer shall have the same right, subject to the provisions of paragraph (3) of this Article, to apply for and to obtain such a grant or order on his application as if he were the duly appointed attorney of the person whose interests he represents.

- (3) The court may, however, if it thinks fit
- (a) postpone the making of a grant or order 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;
 - (b) 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, that he shall repay or return those assets to the authority or person designated by it;
 - (c) order that, the consular officer having otherwise fully administered the estate, the actual transmission of the assets to the beneficiary shall be effected through such other channels as it may direct.

Article 36

Where a consular officer has acted as the representative of a national in pursuance of paragraph (1) of Article 33, he shall cease to be entitled to represent him

- (a) in the event that no grant or order of a court has been made in favour of the consular officer, as from the date on which he is informed that the national is otherwise represented in the territory;
- (b) in the event that such a grant or order has been made in favour of the consular officer, as from the date on which a further grant or order is made on the application of the national or his legal representative;

and, in either case, 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 that date.

Article 37

(1) 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.

(2) The provisions of this Article do not in any way affect the provisions of Article 51 relative to the estates of deceased seamen.

Article 38

(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 33 to 37 and to the law of the territory.

Article 39

(1) Without prejudice to the provisions of Articles 33 to 37, 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 in 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.

Article 40

In any case where, in pursuance of this Part of this Convention, 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 41

(1) Where it is brought to the knowledge of the appropriate authorities of the territory

- (a) that there is in the territory an estate 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 33 to 37; or
- (b) that a national of the sending State has died in the territory and it appears that 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 notify the competent authorities if such information should reach him through any other channel.

Article 42

If a consular officer exercises the rights accorded under this Part of this Convention with regard to an estate he shall to that extent, notwithstanding the provisions of paragraph (2) of Article 16 or of paragraph (3) of Article 18, be subject to the jurisdiction of the courts of the territory in any proceedings arising in connexion therewith. He shall, however, appear not in his personal capacity but as representing the national concerned by virtue of his consular appointment.

PART VII

CONSULAR FUNCTIONS IN RELATION TO SHIPPING

Article 43

When a vessel of the sending State visits or comes to a port or any other place in the receiving State.

- (a) a consular officer may freely perform the functions enumerated in Article 44 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 should 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 44

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 with regard to any incidents which have taken place on board, 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 47, 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 documents 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.

Article 45

A consular officer may appear with the master or any member of the crew before the authorities and courts of the territory, may afford them his assistance

(including the making of arrangements for legal aid) and may act as interpreter in matters between them and these authorities. These rights may be withheld only in cases where questions of national security are involved.

Article 46

(1) If a seaman deserts from a vessel of the sending State in a port of the receiving State, the administrative and judicial authorities of the territory shall, at the request of a consular officer, aid in apprehending the deserter and, on proof of the desertion, detain him and order him to be conveyed on board the vessel or delivered to the master or owner thereof, or his agent, to be so conveyed.

(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 (irrespective of his nationality) 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 47

(1) The judicial authorities of the territory shall not entertain civil proceedings arising out of any 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 consular officer shall have been notified of the proceedings and shall not have raised objection.

(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 except offences

- (a) by or against some person other than the master or a member of the crew or by or against a national of the receiving State; or
- (b) involving the tranquillity or safety of the port or the law of the territory regarding public health, immigration, the safety of life at sea, customs or any similar matter; or
- (c) falling within the definition of a grave offence as set out in subparagraph (k) of paragraph (1) of Article 2 of this Convention.

(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 on board an offence in respect of which the judicial authorities of the territory may, in conformity with sub-paragraphs (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 some other person is detained on board against his will; 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) at the request or with the consent of a consular officer.

(4) The authorities of the territory, administrative or judicial, shall not intervene in relation to the detention in custody on the 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 (irrespective of his nationality) 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) 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, administrative or judicial, 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 notify the consular officer in such time as to enable the consular officer to be present or represented. If on account of the urgency of the matter it has not been possible for the consular officer to be notified in time to be present or represented, he shall be entitled, on his request, to receive from the authorities of the territory full information with regard to what has taken place. The provisions of this paragraph shall not, however, apply to any routine examination by the authorities of the territory with regard to public health, immigration or customs, 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.

Article 48

(1) Subject to the consent of the master of the vessel a consular officer may inspect a vessel of any flag

- (a) 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;
- (b) transporting emigrants, being nationals of the sending State, in order to enable him to assist them and to ensure compliance with the law of that State relating to emigration.

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

Article 49

(1) If a vessel of the sending State is wrecked, stranded or in distress 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 vessel of the sending State which is wrecked, stranded or in distress, 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 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 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) In relation to any article forming part of the cargo of a vessel of any flag (not being a vessel of either High Contracting Party) which 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, the position of the consular officer shall be the same as specified in subparagraph (i) of paragraph (2) of this Article in relation to a vessel of the sending State or any article belonging thereto.

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

- (i) a vessel of the sending State, her cargo or other property on board;
- (ii) an article forming part of the cargo of a 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 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 vessel, which might 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 50

(1) A consular officer may make arrangements for the adjustment of marine averages, where a vessel of the sending State or her cargo, having suffered damage at sea, arrives at a port within his consular district, provided that no national of the receiving State has a direct financial interest in the said vessel or cargo and provided also that there is no agreement in relation thereto between the owners, charterers, shippers and insurers.

(2) When any national of the sending State has a direct financial interest in the adjustment of a marine average, the consular officer may appoint an expert on the adjustment of marine averages and, provided that all the interested parties agree, may arrange a settlement on the basis of his adjustment. In the absence

of such agreement, the competent authorities of the territory may make an adjustment.

Article 51

(1) The competent authority of the receiving State shall, if the master or a 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 Parties¹ 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

¹ See exchange of notes on p. 272 of this volume.

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 territory to which this Convention applies under paragraph (1) of Article 1, the Ministry of Transport of the United Kingdom;
- (b) in relation to any territory to which it applies under paragraph (2) of Article 1, the Ministry of Justice.

PART VIII

CONSULAR FUNCTIONS IN GENERAL

Article 52

(1) A consular officer may perform the functions recognised under this Convention only within his own consular district. In the case of a consular officer to whom a separate consular district has not been allotted, it shall be for the sending State to determine whether he may perform the said functions within the whole of the district of his superintending consular officer or head of post, as the case may be, or within a part of that district only.

(2) (a) In connexion with the performance of his duties, a consular officer shall be entitled to apply to and correspond with the appropriate authorities within his district, and, in the absence of a diplomatic representative of the sending State, with the appropriate departments of the central Government of the territory, including the Foreign Office or the Ministry of Foreign Affairs, as the case may be.

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

(3) 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.

(4) A consular officer shall be permitted to perform functions in addition to those specified in the provisions of the Convention relative to the powers and functions of consular officers, provided that the functions in question are in accordance with international law or practice relating to consular officers as recognised in the territory or involve no conflict with the law of the territory and the authorities of the territory raise no objection to them.

(5) A consular officer may, in connexion with the performance of the functions recognised under the Convention, 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.

PART IX

FINAL PROVISIONS

Article 53

Any dispute which may arise between the High Contracting Parties as to the interpretation or application of any of the provisions of this Convention, together with the Protocols appended thereto, and which shall not have been settled through the diplomatic channel, shall, if the High Contracting Parties so agree be submitted to Arbitration or disposed of by some other procedure or, in the absence of such agreement, shall be referred, at the request of either Party, to the International Court of Justice at The Hague.

Article 54

(1) Each High Contracting Party shall, before the entry into force of this Convention, notify the other, in conformity with sub-paragraph (c) of paragraph (1) of Article 2, of the division of its territories into separate territorial units for the purposes of the Convention, specifying where such division requires to be varied for the purposes of particular Articles.¹

(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.

¹ In a note addressed to the Spanish Government on 8 April 1963, the United Kingdom Government made the following declaration :

“ In respect to the territories referred to in paragraph (1) of Article 1 of the Convention, the United Kingdom of Great Britain and Northern Ireland, The Channel Islands and the Isle of Man, are together to be regarded as a single territory and that all other territories for whose international relations Her Majesty's Government in the United Kingdom are responsible are each to be regarded as a separate territory for the purposes of the Convention, subject to the proviso that, for the purposes of Article 21 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 VI, England, Wales, Scotland, Northern Ireland, The Channel Islands and the Isle of Man, are each to be regarded as a separate territory. ”

Article 55

Upon the entry into force of this Convention the provisions of Articles XX and XXI of the Treaty of Commerce and Navigation between the United Kingdom and Spain signed on the 31st of October, 1922, as subsequently amended,¹ shall terminate in so far as concerns the territories to which the Convention applies.

Article 56

(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 thirty-first 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 through the diplomatic channel notice of termination in writing.

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

DONE, in duplicate, at Madrid, this thirtieth day of May, 1961, in the English and Spanish languages, both texts being equally authoritative.

HOME

Fernando M^a. CASTIELLA

SCHEDULE

The categories of nationals referred to in sub-paragraph (d) (i) of paragraph (1) 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.

¹ League of Nations, *Treaty Series*, Vol. XXVIII, p. 339, and Vol. CXVII, p. 56.

FIRST PROTOCOL OF SIGNATURE

At the time of signing the Consular Convention of this day's date between the United Kingdom of Great Britain and Northern Ireland and the Spanish State, the undersigned Plenipotentiaries, being duly authorised thereto, declare as follows :

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

- (1) in the event of war or of the rupture of relations between two States, either State shall be entitled to demand the closure of all or any of the consulates of the other State in its territory. It shall also be entitled to close all or any such consulate 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 who are nationals of that State and are not nationals of the latter State, provided 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 (which may be placed in sealed containers) 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.

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

DONE, in duplicate, at Madrid, this thirtieth day of May, 1961, in the English and Spanish languages, both texts being equally authoritative.

HOME

Fernando M^a. CASTIELLA

SECOND PROTOCOL OF SIGNATURE

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

(1) The provisions of paragraph (1) of Article 8, 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 of the territories, referred to in 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 the territory in question; or

(c) any part of the territory of Spain where under the law at present in force such acquisition may be denied in the case of persons who do not possess Spanish nationality.

(2) The provisions of Article 17 and of paragraph (2) of Article 47 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.¹

(3) The provisions of paragraph (2) of Article 29 shall not apply to Scotland.

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

DONE, in duplicate, at Madrid, this thirtieth day of May, 1961, in the English and Spanish languages, both texts being equally authoritative.

HOME

Fernando M^a. CASTIELLA

¹ According to the information provided by the Government of the United Kingdom, these provisions have not yet come into operation.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT
BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND AND SPAIN CONCERNING
THE ESTATES OF DECEASED MERCHANT SEAMEN
REFERRED TO IN ARTICLE 51 (2) OF THE
CONSULAR CONVENTION, SIGNED AT MADRID ON
30 MAY 1961.² MADRID, 8 APRIL 1963

I

BRITISH EMBASSY

MADRID

April 8, 1963

Your Excellency,

I have the honour to refer to the Consular Convention between the United Kingdom of Great Britain and Northern Ireland and Spain which was signed at Madrid on the 30th of May, 1961² and which enters into force on the 12th of April, 1963.

Upon the instructions of Her Majesty's Principal Secretary of State for Foreign Affairs, I now have the honour to propose that the sum to be fixed in pursuance of paragraph (2) of Article 51, relative to the estates of deceased merchant seamen, should be £100 sterling in respect of the territories referred to in paragraph (1) of Article 1 and 16,000 pesetas in respect of Spain.

I have the honour further to propose that this Note and Your Excellency's reply thereto in the same sense shall be regarded as constituting the agreement reached between our respective Governments in this matter.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

George LABOUCHERE

Excmo. Sr. D. Fernando María Castiella y Maíz
Minister for Foreign Affairs
Ministry of Foreign Affairs
Madrid

¹ Came into force on 12 April 1963, the date of entry into force of the Consular Convention.

² See p. 170 of this volume.

[TRANSLATION¹ — TRADUCTION²]

MINISTRY OF FOREIGN AFFAIRS

A. C.

Madrid, 8 April, 1963

Your Excellency,

I have the honour to acknowledge receipt of your Note of today's date, the text of which is as follows :

[*See note I*]

I have the honour to express that the Spanish Government is in agreement with the terms of Your Excellency's Note and that, together with this reply, consider it as constituting the agreement reached between our respective Governments in this sense.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Fernando CASTIELLA

His Excellency Sir George Labouchere
Ambassador Extraordinary and Plenipotentiary
of Great Britain

¹ Translation by the Government of the United Kingdom.

² Traduction du Gouvernement du Royaume-Uni.