

No. 11583

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

and

POLAND

**Consular Convention (with protocols of signature). Signed at
London on 23 February 1967**

**Exchange of notes constituting an agreement relating to sub-
paragraph (2)(a) of article 44 of the above-mentioned Conven-
tion. London, 23 February 1967**

Authentic texts : English and Polish.

*Registered by the United Kingdom of Great Britain and Northern Ireland on
10 February 1972.*

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

et

POLOGNE

**Convention consulaire (avec protocoles de signature). Signée à
Londres le 23 février 1967**

**Échange de notes constituant un accord relatif à l'alinéa a du
paragraphe 2 de l'article 44 de la Convention susmentionnée.
Londres, 23 février 1967**

Textes authentiques : anglais et polonais.

*Enregistrés par le Royaume-Uni de Grande Bretagne et d'Irlande du Nord le
10 février 1972.*

CONSULAR CONVENTION¹ BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE POLISH PEOPLE'S REPUBLIC

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 Council of State of the Polish People's Republic;

Animated by the desire further to strengthen the ties of friendship between their two countries;

Wishing to regulate their consular relations, to define the rights, privileges and immunities of consular officers and to facilitate the protection of the nationals and national interests of each High Contracting Party in the territories of the other;

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

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 George Alfred Brown, M.P., Her Majesty's Principal Secretary of State for Foreign Affairs;

The Council of State of the Polish People's Republic :

Mr. Adam Rapacki, 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 :

PART I

APPLICATION AND DEFINITIONS

Article 1

This Convention shall apply, in relation to the High Contracting Parties,

(1) to the United Kingdom of Great Britain and Northern Ireland and to all

¹ Came into force on 13 August 1971, i.e. on the thirtieth day after the date of the exchange of the instruments of ratification, which took place at Warsaw on 14 July 1971, in accordance with article 70(1).

territories for whose international relations Her Britannic Majesty's Government in the United Kingdom are responsible;

- (2) to the territory of the Polish People's Republic.

Article 2

For the purposes of this Convention :

(1) The term " consular officer " shall mean any person, including a consular officer, head of a post, who is charged in this capacity with the performance of consular duties and has been appointed or notified as such in conformity with article 5 or article 6, as the case may be; a consular officer, head of a post, may be either a consul-general, consul, vice-consul or consular agent;

(2) The term " consular employee " shall mean any person employed at a consulate by the sending State to perform :

- (a) technical or administrative duties; or
(b) other duties in the service of the consulate;
and notified as such in conformity with article 8;

(3) The term " consulate " shall mean any consular post, whether a consulate-general, a consulate, a vice-consulate or a consular agency;

(4) The term " consular archives " shall include all official correspondence and documents and office equipment intended for official use, together with any article of furniture used for their protection and safekeeping;

(5) The term " vessel " shall mean,

- (a) in relation to Her Britannic Majesty, any ship or craft registered at a port in any of the territories referred to in paragraph (1) of article 1;
- (b) in relation to the Council of State of the Polish People's Republic, any ship or craft entitled to fly the flag of the Polish People's Republic;

the term shall not, however, include any ship of war;

(6) The term " grave offence " shall mean, for the purposes of article 24, an offence for which a sentence of imprisonment for not less than five years, or a more severe sentence, may be awarded under the law of the receiving State.

PART II

ESTABLISHMENT OF CONSULATES AND APPOINTMENT
OF CONSULAR OFFICERS AND EMPLOYEES*Article 3*

(1) The establishment of a consulate in the receiving State shall be subject to the consent of that State.

(2) The sending and receiving States shall determine by agreement the seat of the consulate and the limits of the consular district.

(3) The sending State may at its discretion designate a consulate as a consulate-general, consulate, vice-consulate or consular agency.

Article 4

(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 the law and regulations of the receiving State,

- (a) acquire, hold or occupy, under any form of tenure which may exist under that law, land, buildings or parts of buildings for the purposes of providing a consulate or a residence for a consular officer or employee or, with the consent of the receiving State, for other purposes arising out of the operation of the consulate;
- (b) construct or adapt buildings for the said purposes;
- (c) dispose of such land and buildings.

(2) If the law of the receiving State requires that permission shall be obtained before the rights accorded under paragraph (1) are exercised, such permission shall be granted subject to compliance with the necessary formalities.

(3) Where necessary, the receiving State shall assist the sending State in acquiring the ownership or possession of land, buildings or parts of buildings for the purposes specified in paragraph (1).

(4) The provisions of this article shall not exempt 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 and parts of buildings in question are situated.

Article 5

(1) A consular officer, head of a post, shall be admitted to act in this capacity upon the presentation of his consular commission or other document

of appointment through the diplomatic channel and the grant to him through the same channel of an exequatur or other authorisation which shall be made as soon as possible and free of charge. The commission or other document of appointment shall specify the full name of the consular officer, his rank, the seat of the consulate and the consular district in which he will perform his duties.

(2) With the consent of the receiving State, a consular officer, head of a post, may be admitted to act as such pending the grant of an exequatur or other authorisation. In such a case a provisional authorisation shall, where necessary, be granted to him.

(3) Upon the appointment of a consular officer, head of a post, the competent authorities of the receiving State shall take the necessary measures to enable him to perform his official duties and to receive the rights due to him under this Convention.

Article 6

In the case of a consular officer appointed to a consulate in a capacity other than that of head of a post, the diplomatic mission of the sending State shall, before he enters upon the performance of his duties, notify the ministry of foreign affairs of the receiving State of the full name of the consular officer, his rank and the consulate to which he has been appointed.

Article 7

A consular officer shall be a person possessing the nationality of the sending State only and not regarded by the receiving State as possessing its nationality.

Article 8

The diplomatic mission of the sending State shall notify the ministry of foreign affairs of the receiving State of the full name and nationality of a consular employee, and the consulate in which he is employed before he enters upon the performance of his duties.

Article 9

A national of the sending State who is already present in the receiving State, or who is on the way to that State, may not be appointed as a consular officer or employee. This prohibition does not apply, however, in the case of a

national who is already a consular officer or employee at a consulate or a member of the diplomatic mission, of the sending State in the receiving State.

Article 10

The receiving State may at any time and without having to explain the reason for its decision, notify the sending State through the diplomatic channel that a consular officer or employee is unacceptable. The sending State shall thereupon recall the consular officer or employee concerned or terminate his duties at the consulate. If the sending State fails to carry out this obligation within a reasonable period, the receiving State may, in the case of a consular officer, head of a post, withdraw the *exequatur* or other authorisation or, in the case of a consular officer or employee, decline to continue to recognise the person concerned in such capacity.

Article 11

(1) The diplomatic mission of the sending State shall inform the ministry of foreign affairs of the receiving State of the private address of a consular officer.

(2) In the case of a consular employee, who is not a national of the receiving State, the consular officer, head of a post, shall inform such authority as may be designated for this purpose of his private address.

Article 12

(1) If a consular officer, head of a post, is unable for any reason to act as such or if the post is temporarily vacant, the sending State may appoint a consular officer belonging to the same consulate or to another consulate in the receiving State or a member of the diplomatic staff of its diplomatic mission in that State to act temporarily in his place. The full name and rank of the person concerned shall be notified in advance to the ministry of foreign affairs of the receiving State.

(2) Such acting officer shall be entitled to perform the duties of the consular officer, head of a post, in whose place he is acting; he shall be subject to the same obligations and shall be accorded the same rights, privileges and immunities as that officer.

Article 13

(1) A member of the diplomatic staff of the diplomatic mission of the sending State may, with the consent of the receiving State, be appointed to perform consular as well as diplomatic duties.

(2) Any person so appointed shall be subject to the same obligations, and shall be accorded the same rights, as a consular officer under this Convention. Without prejudice to the provisions of article 59, he shall continue to receive the privileges and immunities accorded to him by virtue of his diplomatic status.

Article 14

Upon the termination of his appointment or employment at a consulate a consular officer or, provided in the latter case that he is not a national of the receiving State, a consular employee shall be permitted, together with members of his family residing with him, to depart from the receiving State without hindrance and to proceed to the sending State or to such other destination as the diplomatic mission of the sending State may specify. Departure shall take place within a reasonable period.

Article 15

(1) The receiving State shall accord to a consular officer special respect and high consideration and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

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

(3) The provisions of paragraph (2) shall apply to consular residences in the same way as to consulates, and to members of the families of consular officers and employees, residing with them, in the same way as to such officers and employees.

PART III

FACILITIES, PRIVILEGES AND IMMUNITIES

Article 16

(1) Land, buildings and parts of buildings used exclusively for the purposes of a consulate shall be inviolable. The authorities of the receiving State

shall not enter the said land, buildings or parts of buildings except with the consent of the consular officer, head of the post, or of the head of the diplomatic mission of the sending State or of a person nominated by one of them.

(2) The provisions of paragraph (1) shall apply also to the residence of a consular officer, head of a post.

Article 17

A consulate, as also the residence of a consular officer, head of a post, shall not be used to afford asylum.

Article 18

(1) Land, buildings and parts of buildings, their furniture and equipment, used exclusively for consular purposes, including the purpose of providing a residence for a consular officer, as also the means of transport of a consulate or of a consular officer, shall be exempt from all forms of requisitioning. They shall, however, be liable to expropriation or seizure in conformity with the law of the receiving State for purposes of national defence or public utility. Where any such measure is taken, the competent authorities of the receiving State shall take all necessary steps to avoid interference with the work of the consulate.

(2) The receiving State shall pay to the sending State adequate and effective compensation in respect of any such measure not later than six months from the date on which the measure was completed. At the request of the sending State, compensation shall be in a form convertible into the currency of, and transferable to, the sending State.

(3) The provisions of paragraph (2) shall apply also in the case of requisitioning, expropriation or seizure of the residence, its furniture or equipment, or the means of transport, of a consular employee, provided that he is neither a national of the receiving State nor permanently resident in that State.

Article 19

(1) The coat-of-arms of the sending State, together with an appropriate inscription designating the consulate in the official language of that State and of the receiving State, may be placed on the outer enclosure and on the outer wall of the building in which the consulate is installed as also 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, head of a post.

(3) The coat-of-arms of the sending State may be placed, and its flag and consular flag may be flown, on the means of transport (motor vehicles and

launches) which a consular officer, head of a post, employs in the performance of his duties.

(4) Notices of an informative character may be posted outside the consular premises including, in particular, notices relative to the matters referred to in article 40.

Article 20

The consular archives shall be inviolable at all times and wherever they may be. Unofficial documents and objects shall not be kept in the archives.

Article 21

(1) A consulate shall be entitled to exchange communications with the Government of the sending State and with the diplomatic mission, or other consulates, of that State in the receiving State. For this purpose the consulate may employ all public means of communication as also couriers, sealed pouches, bags and other containers, and may use cyphers.

(2) In respect of public means of communication, the same tariffs shall be applied in the case of a consulate as are applied in the case of the diplomatic mission.

(3) The official correspondence of a consulate (whatever the means of communication employed) as also the sealed pouches, bags and other containers referred to in paragraph (1) (which shall contain only official correspondence and objects intended exclusively for official use) shall, provided that they bear visible external marks of their official character, be inviolable and the authorities of the receiving State shall not examine or detain them.

(4) Persons charged with the conveyance of consular pouches, bags and other containers shall be accorded the same rights, privileges and immunities as are accorded by the receiving State to the diplomatic couriers of the sending State.

Article 22

(1) A consular officer or employee shall not be subject to the jurisdiction of the receiving State (criminal, administrative or civil) in respect of an act performed in his official capacity.

(2) The provisions of paragraph (1) shall not, however, apply to a civil action,

(a) arising out of a contract concluded by a consular officer in which he did not contract, expressly or impliedly, on behalf of the sending State;

- (b) brought by a third party in respect of damage caused by a vehicle or vessel;
- (c) to which the provisions of article 59 apply.

(3) The sending State may waive the immunity from jurisdiction of a consular officer or employee. Such waiver shall always be express and shall be notified in writing to the competent authority of the receiving State.

(4) Waiver of immunity from jurisdiction shall not be held to imply waiver of immunity in respect of the execution of judgment for which a separate waiver must be made.

Article 23

(1) In respect of any act performed otherwise than in his official capacity by a consular officer, head of a post, no measure of any kind shall be taken against him nor shall any proceedings (criminal, administrative or civil), other than the proceedings specified in paragraph (2) of article 22, be entertained by the courts of the receiving State except upon prior agreement through the diplomatic channel between the High Contracting Parties.

(2) The provisions of this article shall apply also to members of the family of a consular officer, head of a post, residing with him, provided that the person concerned is neither a national of the receiving State nor permanently resident in that State.

Article 24

(1) A consular officer, to whom the provisions of paragraph (1) of article 23 do not apply, may be placed under preventive detention or arrest pending trial only in the case of a grave offence and on the basis of a decision by the competent authority of the receiving State.

(2) Without prejudice to the provisions of paragraph (1), such a consular officer may not be subjected to any deprivation of liberty except in execution of a judicial decision of final effect.

(3) The provisions of this article shall apply also to the members of the family of the consular officer, residing with him, provided that the person concerned is not a national of the receiving State.

Article 25

(1) In the event of the arrest or detention of, or the institution of criminal proceedings against, a consular officer or employee, the receiving State shall immediately inform the consular officer, head of the post, accordingly.

(2) The provisions of paragraph (1) shall apply also to the members of the family of the consular officer or employee concerned, residing with him.

Article 26

(1) (a) A consular officer may, in the interests of justice, voluntarily comply with a request to give evidence as a witness. In this event, however, he may decline to give evidence with regard to matters falling within the scope of his official duties or in the capacity of an expert witness concerning the law of the sending State. No coercive measures shall be taken to compel the officer to give evidence or to appear in court for this purpose, and no penalty shall be imposed in the event of failure to give evidence or to appear in court.

(b) A consular employee may decline to give evidence as a witness with regard to any matter falling within the scope of his official duties or to produce any document or object from the consular archives.

(2) In any case where a consular officer or employee gives evidence as a witness, all reasonable steps shall be taken to avoid interference with the work of the consulate. On the request of the consular officer, head of the post, such evidence may, where this is possible and permissible, be given, orally or in writing, at the consulate or at the residence of the consular officer or employee concerned.

(3) A consular officer or employee shall be entitled, in giving evidence as a witness, to make an affirmation in lieu of an oath.

(4) The provisions of this article shall apply to proceedings before administrative bodies as well as to proceedings before courts.

(5) The provisions of sub-paragraph (a) of paragraph (1), of paragraph (3) and of paragraph (4) shall apply, to the extent that they are capable of such application, to members of the family of a consular officer, residing with him, provided that the person concerned is not a national of the receiving State.

Article 27

(1) A consular officer shall be exempt in the receiving State from service in the armed forces and from compulsory public service of any kind.

(2) The provisions of paragraph (1) shall also apply to consular employees and to members of the families of consular officers and employees, residing with them, provided that the person concerned is neither a national of the receiving State nor permanently resident in that State.

(3) A consular officer or employee, together with members of his family residing with him, shall be exempt from all requirements under the laws or regulations of the receiving State relative to the registration of aliens, permission to reside and other similar matters.

Article 28

The child of a consular officer or, provided that he is a national of the sending State and is not permanently resident in the receiving State, of a consular employee, shall not acquire the nationality of the latter State solely by virtue of birth in that State during the period of the assignment of the officer or employee concerned to that State in his official capacity.

Article 29

(1) No tax or other similar charge of any kind (national, state, provincial, municipal or other) shall be imposed or collected in the receiving State in respect of,

- (a) land, buildings or parts of buildings used exclusively for consular purposes, including the purpose of providing a residence for a consular officer or employee who is not a national of the receiving State provided that the premises in question are owned or leased in the name of the sending State or of some natural or juridical person acting on behalf of that State, with the exception of any assessment imposed for services or for local public improvements which shall be payable to the extent that such property is benefited thereby;
- (b) transactions or instruments relating to the acquisition of immovable property by the sending State exclusively for consular purposes as specified in sub-paragraph (a) of this paragraph;
- (c) the acquisition, ownership, possession or use of movable property exclusively for consular purposes.

(2) The exemptions accorded under paragraph (1) shall not, however, apply with respect to taxes or similar charges of any kind for the payment of which some other person is legally liable, notwithstanding that the burden of the tax or similar charge may be passed on to the sending State or to one or more natural or juridical persons acting on its behalf.

Article 30

No tax or other similar charge of any kind (national, state, provincial, municipal or other) shall be imposed or collected in the receiving State in

respect of fees received on behalf of the sending State as compensation for consular services or any receipt given in respect of any such fee.

Article 31

(1) A consular officer or employee, provided in the latter case that he is not a national of the receiving State, shall be exempt from all taxes or other similar charges of any kind (national, state, provincial, municipal or other) imposed or collected in the receiving State in respect of the official emoluments, salary, wages or allowances received by him as compensation for his official duties.

(2) Subject to the provisions of paragraph (3), a consular officer or employee, provided that he is not engaged in private occupation for gain in the receiving State and that he is a permanent official of the sending State and provided also, in the case of a consular employee, that he is not a national of the receiving State, shall be exempt from all taxes or other similar charges of any kind (national, state, provincial, municipal or other) imposed or collected in the receiving State for the payment of which he would otherwise be the person legally liable.

(3) The provisions of paragraph (2) shall not, however, apply with respect to taxes or other similar charges of any kind (national, state, provincial, municipal or other) leviable

- (a) on the acquisition, ownership, occupation or disposal of immovable property situated within the receiving State;
- (b) without prejudice to the provisions of paragraph (1), on income derived from other sources or on the appreciation of assets within the receiving State;
- (c) on transactions, or instruments effecting transactions, including stamp duties imposed or collected in connexion therewith;
- (d) without prejudice to the provisions of article 33, on the passing of property at death, for example, by inheritance.

Article 32

(1) The sending State shall be permitted to import into the receiving State and to re-export therefrom, all furniture, equipment, supplies, building materials and other articles, including vehicles and launches, intended for use or consumption in connexion with the official purposes of a consulate and shall be exempt, in respect of all such articles, from all customs duties or other taxes or similar charges of any kind (national, state, provincial, municipal or other)

imposed or collected by the receiving State upon or by reason of importation or re-exportation.

(2) (a) A consular officer who is not engaged in private occupation for gain in the receiving State and who is a permanent official of the sending State shall likewise be permitted to import into the receiving State, and subsequently to re-export therefrom, all baggage and effects and other articles, including vehicles and launches, intended exclusively for his use or consumption or for the use or consumption of members of his family residing with him and shall be exempt, in respect of all such articles, from all customs duties or other taxes or similar charges of any kind (national, state, provincial, municipal or other) imposed or collected by the receiving 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 on 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, provided that he is not a national of the receiving State, that he is not engaged in private occupation for gain in that State and that he is a permanent official of the sending State, shall be accorded, with regard to the duties, taxes and charges referred to in sub-paragraph (a) of this paragraph, the same exemptions as are accorded to a member of the corresponding category of personnel of the diplomatic mission of the sending State.

(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 it 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 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 retains the right to impose any duty, tax or charge in the event of the sale or disposal of any article imported in conformity with this article except where the other party to the transaction would himself be entitled to import the article in question free of that duty, tax or charge;

- (d) the receiving State may determine that the exemptions provided in this article shall not apply in respect of articles grown, produced or manufactured in the receiving State which have been exported therefrom free of any duties, taxes or charges which would have been leviable but for such exportation;
- (e) nothing in this article shall be construed so as to permit the entry into the receiving State or the export from that State of any article the importation or exportation of which is specifically prohibited under the law of the receiving State.

Article 33

If a consular officer or employee or a member of his family, residing with him, dies and leaves movable property in the receiving State, no tax or other similar charge of any kind shall be imposed or collected by the receiving State in respect of that property, provided that the deceased person was not a national of the receiving State and that the presence of the property in that State was due solely to the presence of the deceased in the capacity of a consular officer or employee or as a member of the family of a consular officer or employee.

Article 34

(1) The privileges and immunities accorded under this Convention shall be granted to a consular officer or employee from the moment of his entry into the receiving State to assume his post, or, if he is already in that State, from the moment of taking up his duties at the consulate. They shall continue to be granted until the moment of departure from the receiving State upon the termination of his appointment or employment.

(2) In the case of members of the family of a consular officer or employee, residing with him, the said privileges and immunities shall be granted from the moment when they are granted to the officer or employee concerned, or from the moment of entry into the receiving State, whichever is the later, and shall continue to be granted until the moment of departure from the receiving State of that officer or employee upon the termination of the appointment.

Article 35

(1) A consular officer shall be given an appropriate document indicating his status by the competent authority of the receiving State.

(2) The provisions of paragraph (1) shall also apply to consular employees and to members of the families of consular officers and employees, residing with them, providing that the person concerned is neither a national of the receiving State nor permanently resident in that State.

Article 36

Subject to the laws and regulations of the receiving State with regard to areas entry into which is prohibited or restricted for reasons of national security, a consular officer or employee shall be permitted to travel freely in that State. The provisions of this article shall be without prejudice to any requirement with regard to the obtaining of visas or other travel documents which may be imposed by the receiving State.

Article 37

(1) All persons to whom privileges and immunities are accorded under this Convention shall, without prejudice to the said privileges and immunities, be under an obligation to respect the laws and regulations of the receiving State.

(2) A consular officer or employee shall not take advantage of the rights, exemptions, privileges or facilities accorded under the Convention for purposes other than those for which they are accorded.

(3) A consular officer or employee, if he employs in the receiving State any person whose wage or salary is not exempt from income tax in that State, shall observe any obligation imposed upon employers by the laws and regulations of the receiving State with regard to the levying of income tax.

(4) Means of transport (motor vehicles and launches) owned by the sending State and used for the official purposes of a consulate, or owned by a consular officer or employee, shall be adequately insured in the receiving State against third party risks.

PART IV

CONSULAR FUNCTIONS

SECTION A. GENERAL PROVISIONS

Article 38

(1) A consular officer shall be entitled to perform the duties specified in this Convention. He may, in addition, perform other duties, provided that they

are not contrary to the law of the receiving State or are acts to which no objection is raised by that State.

(2) In any case where a consular officer is entitled under the Convention to perform a duty, it is for the sending State to determine to what extent the consular officer shall exercise such a right.

(3) A consular officer shall be entitled to perform consular duties only within his own consular district. The performance by him of consular duties outside that district shall be subject to the consent of the receiving State.

(4) (a) A consular officer shall be entitled, in connexion with the performance of his duties, to apply to the local authorities within his consular district as also, where appropriate, to the central authorities of the receiving State.

(b) A consular officer may not, however, except in the absence of a diplomatic representative of the sending State, apply direct to the ministry of foreign affairs of the receiving State.

(5) Upon notification to the receiving State, a consular officer shall be entitled to perform duties on behalf of a third State, provided that the receiving State does not raise objection.

(6) A consular officer shall be entitled to levy the fees prescribed by the sending State for the performance of consular service.

Article 39

A consular officer may, on notification to the receiving State, act as representative of the sending State to an international organisation. In this capacity he shall be entitled to enjoy any facilities, privileges and immunities accorded to such a representative by customary international law or by international agreements.

SECTION B. GENERAL FUNCTIONS

Article 40

A consular officer shall be entitled to promote the interests of the sending State in relation to commercial, economic, scientific and cultural matters and tourism and to further the expansion of contacts and the development of friendly relations between those States in these and other fields of their mutual relations.

Article 41

A consular officer shall be entitled to protect and promote the rights and interests of the sending State and of its nationals, including, where the context so permits, juridical persons.

Article 42

In any case where a national of the sending State is not present or otherwise represented in the receiving State, a consular officer shall be entitled, consistently with the law of the receiving State, to take, personally or through an authorised representative, any necessary measures to safeguard the rights and interests of the national before an authority of the receiving State (judicial or administrative). A consular officer may, likewise, propose to the competent authority that consideration of the matter be postponed until such time as the national has been informed and has had reasonable opportunity to arrange to be present or represented.

Article 43

(1) A consular officer shall be entitled to communicate with, interview and advise a national of the sending State, to aid him in relations with, or in proceedings before, the authorities of the receiving State (judicial or administrative), 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) No restriction shall be placed by the receiving State upon the access of a national of the sending State to the consulate or upon communication by him with the consulate.

Article 44

(1) In any case where a national of the sending State has been arrested, detained or subjected to any other deprivation of liberty, the competent authorities of the receiving State shall immediately inform the appropriate consular officer accordingly.

(2) (a) In any case to which the provisions of paragraph (1) apply, the consular officer shall have the right immediately to communicate with, to visit and to converse with the national. Any communication from the national

to the consular officer, or, if it is necessary to retain the original thereof, a copy of the communication, shall be forwarded immediately to the consular officer.

(b) The provisions of this paragraph shall apply also in any case where a national who has been convicted and is serving a sentence of imprisonment is entitled to appeal under the ordinary rules as to the time within which an appeal may be made.

(3) In any case where a national of the sending State has been convicted and is serving a sentence of imprisonment and where the provisions of sub-paragraph (b) of paragraph (2) do not apply, the consular officer shall have the right to communicate with and to visit and converse with him. Such visits may be made on a recurrent basis and at intervals of not more than one month.

(4) The communications and conversations provided for in this article may, at the choice of the consular officer, be in the language of the sending State or of the receiving State or, with the consent of the competent authorities of the receiving State, in another language.

(5) A national to whom the provisions of this article apply may receive from the consular officer parcels containing food, clothes, medicaments and reading and writing materials to the extent that the applicable regulations of the institution in which he is detained so permit.

(6) The rights to communicate, visit and converse with a national to whom this article applies shall be accorded in conformity with the applicable laws and regulations of the receiving State, always provided, however, that the application of the said laws and regulations shall not derogate from the rights to communicate, visit and converse with the national.

(7) The High Contracting Parties shall from time to time make appropriate arrangements for giving effect to sub-paragraph (a) of paragraph (2).

Article 45

A consular officer shall be entitled,

- (a) to keep a register of nationals of the sending State;
- (b) to issue to nationals of the sending State, and other persons eligible to receive them, passports and other similar documents, and to amend, renew, validate and revoke such passports and documents;
- (c) to issue and revoke visas and other similar documents;
- (d) to draw up and receive declarations and documents required under the law of the sending State, including those relative to nationality;

- (e) to serve judicial documents or take evidence on behalf of the courts or other authorities of the sending State in a manner permitted under special arrangements on this subject between the High Contracting Parties or otherwise not inconsistent with the law of the receiving State;
- (f) to draw up, issue or deliver such notices and documents, including those concerning compulsory military service, to a national of the sending State as may be required under the law of that State.

Article 46

- (1) A consular officer shall be entitled,
 - (a) to register the birth or death of a national of the sending State;
 - (b) to record a marriage solemnized under the law of the receiving State or a divorce granted under that law, provided that at least one of the parties to such marriage or divorce is a national of the sending State;
 - (c) to solemnize a marriage, provided that both parties thereto are nationals of the sending State and provided also that the solemnization of such a marriage is not prohibited under the law of the receiving State.

(2) The provisions of paragraph (1) shall not be regarded as exempting a private person from any obligation imposed by the law of the receiving State with regard to the notification to, or registration with, the competent authorities of any matter dealt with in these provisions.

Article 47

- (1) A consular officer shall be entitled,
 - (a) to draw up, attest, authenticate, certify or take such other action, including the legalisation of seals or signatures, as may be necessary to validate acts or documents of a juridical character, or copies thereof, including declarations, commercial documents, registrations, testamentary dispositions and contracts required
 - (i) by a person of any nationality for use in the sending State or under the law of that State;
 - (ii) by a national of the sending State for use elsewhere than in that State;
 - (b) to translate acts and documents and to certify the accuracy of the translation.

(2) In any case where an act or document, whether or not in the same form

as a corresponding act or document of the receiving State, referred to in paragraph (1), is required for use in the receiving State or under the law of that State, the authorities of that State shall be obliged to recognise its validity only to the extent that this is consistent with the law of the receiving State.

Article 48

(1) Acts and documents issued by the competent authority of the sending State, including copies and extracts (certificates of births, deaths and marriages etc.), whether or not in the same form as corresponding acts or documents of the receiving State and whether or not attested, authenticated, certified or legalised in the sending State by the competent authority of that State, provided that they are valid under the law of that State, shall be recognised as such in the receiving State, if this is not contrary to the law of that State.

(2) The acts and documents specified in paragraph (1), whether or not in the same form as corresponding acts or documents of the receiving State shall, where the law of the receiving State permits an act or a document of a foreign State to be so admitted, be admissible in evidence in the courts of the receiving State.

Article 49

(1) A consular officer shall be entitled to propose to a court or other competent authority of the receiving State the names of appropriate persons to act as guardians or trustees in respect of a national of the sending State or in respect of the property of such a national in any case where that property is left without supervision.

(2) If the court or authority concerned considers that a person proposed is for any reason unacceptable in such capacity the consular officer may propose a new candidate.

SECTION C. FUNCTIONS RELATING TO ESTATES

Article 50

Where it comes to the knowledge of the competent authorities of the receiving State that a national of the sending State has died in the former State they shall, without delay, inform the appropriate consular officer accordingly and shall transmit to him a copy of the death certificate.

Article 51

(1) Where it is brought to the knowledge of the competent authorities of the receiving State that there is in that State an estate

(a) of a national of the sending State in relation to which no person (other than an official of the receiving State in his official capacity) entitled to claim administration is present or represented in the receiving State; or

(b) 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 article 53,

the said authorities shall, without delay, inform the appropriate consular officer accordingly.

(2) The consular officer shall likewise notify the competent authorities of the receiving State if such information should reach him through any other channel.

Article 52

Where a deceased national of the sending State leaves property in the receiving State the consular officer shall be entitled to take steps, personally or through an authorised representative, consistent with the law of the receiving State,

(a) for the protection and preservation of the estate;

(b) for the administration (including the realisation and distribution) of the estate.

Article 53

(1) Where a national of the sending State holds or claims an interest in property left in the receiving State by a deceased person and is neither resident nor otherwise represented in that State, the consular officer within whose district the estate is being administered or, if no administration has been instituted, the property is situated, shall be entitled to represent the interests of the national to the same extent as if valid powers of attorney had been executed by him in favour of the consular officer. In representing the interests of a national the consular officer may act through an authorised representative.

(2) The provisions of paragraph (1) shall apply whatever the nationality of the deceased person and irrespective of the place of his death.

Article 54

(1) If it is necessary under the law of the receiving State to obtain a grant of representation or order of a court before action can be taken in pursuance of article 53, any such grant or order shall be made in favour of the consular officer upon his application as would have been made in favour of the duly appointed attorney of the national whose interests the consular officer represents.

(2) On *prima facie* evidence of the necessity for the immediate protection and preservation of the estate and of the existence of a 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 55

(1) If a national of the sending State whom a consular officer represents by virtue of the provisions of article 53 subsequently becomes legally represented in the receiving State, the consular officer shall cease to represent him as from the date when he is informed that the national is otherwise represented.

(2) Where a grant of representation or order of a court has already been made in favour of the consular officer under article 54, the consular officer shall continue to represent the national until the date when a further grant or order has been made on the application of the national or of his representative.

Article 56

(1) A consular officer shall be entitled, on behalf of a national of the sending State neither present nor resident in the receiving State, to receive money or other property to which the national is entitled as a consequence of the death of any person. Such money or property may include, *inter alia*, shares in an estate, legacies, payments made in respect of compensation or under social security legislation, pensions, and the proceeds of insurance policies.

(2) In conformity with the law of the receiving State, the consular officer may transmit the money or property referred to in paragraph (1) to the national. Any tax or charge due in respect of such money or property shall be paid.

- (3) If the court, agency or person concerned should think it necessary to impose conditions with regard to
- (a) the production of a power of attorney or other authorisation from the national concerned; or
 - (b) the production of reasonable evidence of the receipt of such money or property by the said national or the return of the money or property in the absence of such evidence,
- the consular officer shall comply with such conditions.

Article 57

(1) A consular officer shall be entitled to receive and distribute an estate of small value of a deceased national of the sending State without first obtaining a grant or order from the court to the extent that this may be permitted under the law of the receiving State.

(2) The High Contracting Parties shall agree, by exchange of notes, to what estates the provisions of paragraph (1) shall apply as also upon any subsequent modifications in relation to such estates.

Article 58

(1) If a national of the sending State, not being domiciled in the receiving State, dies during a temporary stay in or while passing through that State, a consular officer may take immediate custody of the money and effects in the personal possession of the deceased national.

(2) The consular officer may subsequently arrange for the disposal of such money and effects to the extent that this is consistent with the applicable law.

Article 59

If a consular officer exercises the rights accorded under articles 52 to 58 with regard to an estate he shall, notwithstanding the provisions of article 22, of article 23 and of paragraph (1) of article 26, be subject to that extent to the civil jurisdiction of the courts of the receiving State.

Article 60

Where a consular officer receives from a court, agency or person money or other property, in pursuance of the provisions of this Section, he shall be obliged, upon request, to furnish an official receipt in respect of such money or property.

SECTION D. FUNCTIONS RELATING TO SHIPPING

Article 61

(1) If a vessel of the sending State comes to a port or other place of anchorage in the receiving State, the appropriate consular officer shall be entitled to render every aid and assistance to the vessel, her crew and passengers and to exercise his duties of supervision over merchant shipping under the law of the sending State.

(2) For this purpose, the consular officer may, without interference from the authorities of the receiving State,

- (a) proceed on board the vessel as soon as she has been cleared on arrival;
- (b) exchange communications with the master or any member of the crew;
- (c) receive visits from the master or any member of the crew unless in any case the authorities of the receiving State shall raise objection on the ground that it would not be practicable for the master or member of the crew concerned to rejoin the vessel before her departure. In the event of such objection being raised the authorities of the receiving State shall immediately inform the consular officer.

(3) The consular officer may invoke the aid of the competent authorities of the receiving State in any matter relating to the performance of his duties with respect to a vessel of the sending State or to the master and members of the crew of such a vessel. The authorities shall accord the requisite assistance unless in any particular case there are serious reasons for withholding it.

Article 62

- (1) A consular officer shall be entitled,
- (a) to 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 arrival, stay and departure of the vessel;
 - (b) without prejudice to the provisions of article 63, to settle disputes between the master and any member of the crew, including disputes as to wages and contracts of service;
 - (c) to arrange for the engagement and discharge of the master or any member of the crew;
 - (d) to receive, draw up or execute any declaration, certificate or other document relative to merchant shipping, prescribed by the law of the sending State;
 - (e) to take depositions from the master or any member of the crew in conformity with the law of the sending State;

- (f) to arrange for the treatment, stay in a hospital and repatriation of the master or any member of the crew of the vessel;
- (g) to take measures for the enforcement of the law of the sending State relative to merchant shipping.

(2) A consular officer may, to the extent that the law of the receiving State permits him to do so, appear with the master or any member of the crew of the vessel before the courts and authorities of that State, render them every assistance (including the making of arrangements for legal aid) and act as interpreter in matters between them and these courts and authorities.

Article 63

(1) The judicial authorities of the receiving State shall not entertain any proceedings with regard to disputes as to wages and contracts of service between the master and a member of the crew of a vessel of the sending State without first giving notice to the appropriate consular officer and shall refuse to entertain the proceedings if the consular officer objects.

(2) These authorities may, however, exercise any other civil jurisdiction which they may possess under the law of the receiving State.

Article 64

(1) Where it is the intention of the courts or other competent authorities of the receiving State to institute any formal enquiry or to take any coercive action (including the arrest or detention of any person or the seizure of any property) on board a vessel of the sending State, they shall notify the appropriate consular officer accordingly. Such notification shall be made in time to enable the consular officer or his representative to be present or, if this should prove to be impracticable owing to the urgency of the matter, as soon as possible thereafter. If the consular officer was not present or represented, he shall, upon request, be provided by the authorities concerned with full information with regard to what has taken place.

(2) The provisions of paragraph (1) shall apply also in any case where it is the intention of the competent authorities of the port to question the master or any member of the crew ashore.

(3) The provisions of paragraph (1) and of paragraph (2) shall not be regarded as derogating from the provisions of article 44.

(4) The provisions of this article shall not apply to any routine examination by the authorities with regard to immigration, customs, public health, the safety of life at sea or any action taken at the request or with the consent of the master of the vessel.

Article 65

(1) If a vessel of the sending State is wrecked, runs aground, is swept ashore or otherwise sustains damage in the receiving State or if any article belonging to that vessel or forming part of her cargo or of the cargo of a wrecked vessel of a third State and being the property of a national of the sending State is found in the receiving State or brought into a port of that State, the competent authorities of the receiving State shall, without delay, inform the consular officer accordingly.

(2) The competent authorities of the receiving State shall take all practicable measures for the safety and preservation of the wrecked vessel, the lives of persons on board the vessel and the cargo and other property on board, as also articles belonging to the vessel or forming part of her cargo which have become separated from the vessel. The measures in question shall, where practicable, be taken in collaboration with the master of the vessel and with the consular officer or his representative.

(3) In the absence of any other person authorised so to act (for example, the master, the owner, his agent or the underwriters concerned), the consular officer shall be deemed to be authorised to make, on behalf of the owner, the same arrangements as the owner himself could have made if he had been present in relation to

- (a) a vessel of the sending State, her cargo or any article belonging to the vessel, or forming part of her cargo, which has become separated from the vessel; or
- (b) the cargo, or any article forming part of the cargo of a wrecked vessel of a third State and being the property of the sending State or of a national of that State which has been found on or near the coast of the receiving State or is brought into a port of that State.

(4) The vessel, cargo, equipment and fittings, stores or other articles from the vessel, provided that they are not delivered for use or consumption in the receiving State, shall not be liable to customs duties or other taxes of any kind, imposed upon or by reason of importation. The laws and regulations of the receiving State with regard to the temporary storage of goods ashore shall, however, be applicable.

Article 66

(1) A consular officer shall be entitled, with the consent of the master, to visit a vessel of any flag destined to a port of the sending State, in order to obtain

- (a) any information necessary for the preparation and execution of any documents required under the law of the sending State as a condition of entry; or
- (b) any particulars required by the appropriate authorities of the sending State with regard to sanitary or other matters.

(2) In exercising the right set out in paragraph (1), the consular officer shall act with all possible despatch in order to avoid delaying the departure of the vessel.

Article 67

The provisions of articles 61 to 66 shall also apply in relation to civil aircraft and civil aviation to the extent that they are capable of such application.

Article 68

(1) If a ship of war of the sending State comes to a port or other place of anchorage in the receiving State, the appropriate consular officer shall be entitled to render every aid and assistance to the ship, her commanding officer and crew.

(2) The consular officer may proceed on board the ship and the commanding officer and members of the crew may communicate with the consular officer.

PART V

FINAL PROVISIONS

Article 69

The provisions of this Convention shall not be regarded as derogating from the provisions of the Convention on Legal Proceedings in Civil and Commercial Matters of 26 August, 1931,¹ or of the Extradition Treaty of 11 January, 1932,² concluded between the United Kingdom and Poland.

Article 70

(1) This Convention shall be ratified and the instruments of ratification

¹ League of Nations, *Treaty Series*, vol. CXXXI, p. 19.

² *Ibid.*, vol. CXLVIII, p. 221.

shall be exchanged at Warsaw 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 remain in force for a period of five years. In case neither High Contracting Party shall have given to the other, twelve months before the expiry of the said period of five years, notice of intention to terminate the Convention, it shall continue to remain in force indefinitely until the expiry of twelve months from the date on which notice of such intention is given.

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

DONE in duplicate at London this twenty-third day of February, 1967 in the English and Polish languages, both texts being equally authoritative.

On behalf of Her Britannic Majesty :

GEORGE BROWN

On behalf of the Council of State of the Polish People's Republic :

A. RAPACKI

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 Polish People's Republic, the undersigned Plenipotentiaries, being duly authorised thereto, have agreed as follows :

“Neither High Contracting Party shall be obliged to apply the provisions of article 44 of the Consular Convention in relation to a national of the other Party who claims to be a political refugee.”

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

DONE in duplicate at London, this twenty-third day of February, 1967, in the English and Polish languages, both texts being equally authoritative.

On behalf of Her Britannic Majesty :

GEORGE BROWN

On behalf of the Council of State of the Polish People's Republic :

A. RAPACKI

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 Polish People's Republic, the undersigned Plenipotentiaries, being duly authorised thereto, have agreed as follows :

“ The High Contracting Parties shall enter into negotiations within a period of twelve months with a view to the conclusion of an agreement to regulate the right of their authorities, judicial and administrative, to exercise jurisdiction, or to intervene, in relation to matters occurring on board a vessel of one Party in the territories of the other Party.”

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

DONE in duplicate at London, this twenty-third day of February, 1967, in the English and Polish languages, both texts being equally authoritative.

On behalf of Her Britannic Majesty :

GEORGE BROWN

On behalf of the Council of State of the Polish People's Republic :

A. RAPACKI

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND AND THE POLISH PEOPLE'S
REPUBLIC RELATING TO SUB-PARAGRAPH (2)(a) OF
ARTICLE 44 OF THE CONSULAR CONVENTION OF 23
FEBRUARY 1967²

I

*The Secretary of State for Foreign Affairs to the Minister for Foreign Affairs
of the Polish People's Republic*

FOREIGN OFFICE, S.W.1

23 February, 1967

Your Excellency,

With reference to the Consular Convention of today's date² between our two countries, I have the honour to confirm that Her Majesty's Government in the United Kingdom are prepared to enter into an arrangement in pursuance of paragraph (7) of article 44 of the Convention in the following terms :

“ Either High Contracting Party may suspend wholly or in part the application of sub-paragraph (a) of paragraph (2) of article 44 in cases which are of exceptional gravity and which involve serious considerations of national security. The duration of any such suspension shall be kept to a minimum and the rights set out in the said sub-paragraph shall be accorded in full with the least practicable delay. In any event the consular officer shall be permitted to visit the national in adequate time to enable him to make arrangements for legal assistance with a view to the trial.”

If the foregoing corresponds to the views of the Government of the Polish People's Republic I have the honour 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 have the honour to be, with the highest consideration and respect, Your Excellency's obedient Servant,

GEORGE BROWN

¹ Came into force on 13 August 1971, the date of the entry into force of the Consular Convention.

² See p. 262 of this volume.

[TRANSLATION¹ — TRADUCTION²]

*The Minister for Foreign Affairs of the Polish People's Republic
to the Secretary of State for Foreign Affairs*

MINISTER FOR FOREIGN AFFAIRS

London, 23 February, 1967

Your Excellency,

I have the honour to acknowledge the receipt of Your Excellency's letter of to-day's date reading as follows :

[*See letter I*]

I have the honour to express agreement to the above and to accept Your Excellency's proposal that the Note quoted above together with this reply should constitute an Agreement in this matter.

Please accept, Your Excellency, the assurances of my deep respect.

A. RAPACKI

¹ Translation supplied by the Government of the United Kingdom.

² Traduction fournie par le Gouvernement du Royaume-Uni.