

No. 12811

**UNION OF SOVIET SOCIALIST REPUBLICS
and
SOMALIA**

**Consular Convention (with protocol). Signed at Moscow on
19 November 1971**

Authentic texts: Russian and English.

*Registered by the Union of Soviet Socialist Republics on 20 November
1973.*

**UNION DES RÉPUBLIQUES SOCIALISTES
SOVIÉTIQUES
et
SOMALIE**

**Convention consulaire (avec protocole). Signée à Moscou le
19 novembre 1971**

Textes authentiques: russe et anglais.

*Enregistrée par l'Union des Républiques socialistes soviétiques le 20
novembre 1973.*

CONSULAR CONVENTION¹ BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE SOMALI DEMOCRATIC REPUBLIC

The Union of Soviet Socialist Republics and the Somali Democratic Republic,

In the interests of further developing cooperation and strengthening the existing friendly relations between the two States,

Being desirous of regulating consular relations between them,

Have decided to conclude the present Consular Convention and have agreed as follows:

SECTION I. DEFINITIONS

Article 1. DEFINITIONS

For the purpose of the present Convention, the terms introduced hereunder have the following meaning:

1. "Consulate" means any consulate-general, consulate, vice-consulate or consular agency;
2. "Head of Consulate" means a consul-general, consul, vice-consul, or consular agent directing the consulate;
3. "Consular officer" means any person, including the head of the consulate, entrusted with the exercise of consular functions;
4. "Employee of the consulate" means a person, who is not a consular officer, performing administrative, technical or service functions in a consulate;
5. "Vessel" in relation to the sending State means any craft, designed to navigate in the water, sailing under the flag of that state.

SECTION II. ESTABLISHMENT OF CONSULATES, APPOINTMENT OF CONSULAR OFFICERS AND EMPLOYEES

Article 2. ESTABLISHMENT OF CONSULATES

1. A consulate may be established in the receiving State only with that State's consent.
2. The location of a consulate and the limits of its consular district shall be determined by agreement between the sending and receiving States.

¹ Came into force on 5 March 1973, i. e. the thirtieth day following the exchange of instruments of ratification, which took place in Mogadiscio on 3 February 1973, in accordance with article 42(1).

Article 3. PROCEDURE FOR APPOINTMENT OF HEAD OF CONSULATE

1. Prior to the appointment of a head of a consulate, the sending State shall obtain the approval of the receiving State to such an appointment through diplomatic channels.

2. After the approval is obtained, the diplomatic mission of the sending State shall transmit to the foreign affairs ministry of the receiving State a consular commission or another document about the appointment of a head of a consulate. The commission or another document shall contain the full name of the head of the consulate, his citizenship, his rank, the consular district assigned to him, and the seat of the consulate.

3. After the presentation of the commission or another document about the appointment of the head of the consulate the receiving State shall give him within the shortest possible time and free of charge an exequatur or other authorization.

4. The head of the consulate may enter upon the exercise of his duties after the receiving State issues him an exequatur or other authorization.

Article 4. PARTICULARS OF CONSULAR OFFICER

The full name, citizenship, function and rank of all consular officers other than the head of a consulate shall be notified in advance by the sending State to the foreign affairs ministry of the receiving State.

Article 5. NATIONALITY OF CONSULAR OFFICERS

Consular officers shall be nationals only of the sending State.

Article 6. “PERSONA NON GRATA”

The receiving State may at any time, and without having to explain its decision, notify the sending State through diplomatic channels that the exequatur or other authorization to the head of a consulate was recalled or that any consular officer or consular employee is *persona non grata*. In such a case the sending State shall accordingly recall such consular officer or employee of the consulate if he has already started to carry out his work. If the sending State fails within a reasonable time to carry out this obligation the receiving State may refuse to recognize such a person as consular officer or employee of the consulate.

Article 7. FACILITIES FOR WORK OF CONSULATES

The receiving State shall ensure its protection to a consular officer and take the necessary measures in order that a consular officer may carry out his duties and enjoy the rights, immunities, and privileges provided for in the Convention and by the laws of the receiving State.

Article 8. TEMPORARY EXERCISE OF FUNCTIONS
OF HEAD OF CONSULATE

1. If for some reason the head of a consulate cannot carry out his functions or if the position of head of a consulate is temporarily vacant, the sending State may empower a consular officer of the same or another consulate in the receiving State or one of the members of the diplomatic staff of its diplomatic mission in the receiving State to act temporarily as head of the consulate. The full name of this person must be transmitted in advance to the foreign affairs ministry of the receiving State.

2. A person empowered to act as temporary head of the consulate shall be entitled to perform the duties of the head of the consulate whom that person was appointed to replace. Such person shall be entitled to perform the same duties and enjoy the same rights, privileges and immunities as if that person had been appointed to the post under article 3 of the Convention.

3. The appointment of a member of the diplomatic staff of the diplomatic mission of the sending State to the consulate, in accordance with paragraph 1 of the present article, shall not affect privileges and immunities which he derives from his diplomatic status.

Article 9. EXERCISE OF CONSULAR FUNCTIONS BY MEMBERS
OF DIPLOMATIC MISSION

1. Members of the diplomatic staff of the diplomatic mission of the sending State in the receiving State empowered to carry out consular functions at this mission shall enjoy rights and duties of consular officers under the present Convention.

2. Performing the consular functions by the officers specified in paragraph 1 of this article shall not affect the privileges and immunities which they derive from their diplomatic status.

Article 10. ACCOMMODATION FACILITIES

The sending State may acquire in the receiving State or occupy, under any form of tenure which is laid down by the receiving State, plots of land, buildings or parts of buildings for the purposes of lodging a consulate and establishing a residence for consular officers or employees of the consulate if they are citizens of the sending State.

The receiving State shall where necessary assist the sending State in obtaining plots of land, buildings or parts of buildings for the above purposes.

SECTION III. PRIVILEGES AND IMMUNITIES

Article 11. USE OF COAT-OF-ARMS AND NATIONAL FLAG

1. Consular shield with the coat-of-arms of the sending State and the appropriate name of the consulate in the language of the sending State and

in the language of the receiving State may be affixed on the building in which the consulate is located.

2. The flag of the sending State or its consular flag may be flown at the consulate and also at the residence of the head of the consulate.

3. The appropriate flag of the sending State may be also flown by the head of the consulate on his means of transport (cars, launches) when used for official purposes.

Article 12. INVIOABILITY OF CONSULAR PREMISES

1. Buildings or parts of buildings used solely for the purposes of the consulate and the plot of land ancillary thereto shall be inviolable.

The authorities of the receiving State may not enter the buildings, parts of buildings used solely for the purposes of the consulate, or the plot of land ancillary to these buildings or parts of buildings without the consent of the head of the consulate, the head of the diplomatic mission of the sending State or persons appointed by one of them.

2. The provisions of paragraph 1 of this article shall also apply to the residences of consular officers and employees of the consulate.

Article 13. INVIOABILITIES OF CONSULAR ARCHIVES

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

Article 14. FREEDOM OF COMMUNICATION

1. (a) The consulate shall have the right to communicate with its Government or the diplomatic mission and consulates of the sending State in the receiving State. For this purpose the consulate may have use of all public means of communication, code, couriers and sealed pouches (bags, pouches, etc.).

(b) The same fees shall apply to a consulate in the use of public means of communication as apply to a diplomatic mission.

2. The official correspondence of a consulate, regardless of what means of communication are used, and the sealed pouches bearing visible external marks of its official character shall be inviolable and not subject to examination or detention by the authorities of the receiving State.

3. The receiving State shall accord to persons employed to convey consular pouches the same rights, privileges and immunities as those accorded to the diplomatic couriers of the sending State.

4. Consular pouch may be entrusted with the captain of a ship or an aircraft. He shall be provided with an official document indicating the number of packages constituting a pouch but he shall not be considered to be a consular courier. A consular officer may take possession of the pouch directly and freely from the captain of the ship or the aircraft.

Article 15. PERSONAL INVIOABILITY OF CONSULAR OFFICERS
AND EMPLOYEES

A consular officer or an employee of the consulate, provided that he is not a national of the receiving State, shall be inviolable. He shall not be liable to arrest or detention in any form. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

Article 16. IMMUNITY FROM JURISDICTION

1. A consular officer or an employee of the consulate, provided that he is not a national of the receiving State, shall be immune from the jurisdiction of the receiving State except as provided in sub-paragraphs "a", "b" and "c" of paragraph 1 and in paragraph 3 of article 31 of the Vienna Convention on Diplomatic Relations signed on 18 April 1961.¹

2. Members of the families of consular officers or employees of the consulate, provided that they are not nationals of the receiving State, forming part of their households, shall be inviolable and immune from the jurisdiction of the receiving State as much as consular officers or employees of the consulate.

3. The sending State may waive the immunity of consular officers, employees of the consulate and members of their families. The waiver must always be specifically expressed in writing.

Waiver of immunity from jurisdiction in respect of civil and administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgement for which a separate waiver shall be necessary.

4. However, the provisions of paragraphs 1 and 2 of this article shall not apply in respect to a civil action of a third party for damages arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

Article 17. LIABILITY TO GIVE EVIDENCE

1. A consular officer is not obliged to give evidence as a witness.

2. An employee of the consulate who is not a national of the receiving State may be required to give evidence as a witness. However, he may decline to give evidence relative to any matter within the scope of his official duties. No measures shall be taken to compel an employee of the consulate to give evidence or appear for that purpose in court or to initiate proceedings against him in case of his refusal to give evidence or appear in court.

3. In the event that an employee of the consulate agrees to give evidence, all reasonable measures shall be taken to avoid interference with the work of the consulate. Where permissible and possible, oral and written evidence may be given at the consulate or at the residence of the employee of the consulate concerned.

¹ United Nations, *Treaty Series*, vol. 500, p. 95.

4. An employee of the consulate who is not covered by the provisions of paragraph 2 of the present article may decline to give evidence relative to matters within the scope of his official duties.

5. The provisions of the present article shall apply to court proceedings as well as proceedings initiated by administrative authorities.

6. The provisions of paragraphs 1, 2, 4 and 5 of the present article shall respectively apply to members of the families of consular officers and employees of the consulate if they are members of their households and are not nationals of the receiving State.

Article 18. EXEMPTION FROM SERVICE IN ARMED FORCES, ETC.

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

2. The provisions of paragraph 1 of the present article shall also apply to employees of the consulate and members of the families of consular officers and employees of the consulate forming part of their households, provided that in each case the person concerned is not a national of the receiving State.

*Article 19. EXEMPTION FROM REGISTRATION
AND OTHER SIMILAR REQUIREMENTS*

A consular officer or an employee of the consulate as well as members of their families forming part of their households shall be exempt from any obligations envisaged by laws and regulations of the receiving State in matters of registration, residence permits and other requirements applied to aliens.

Article 20. EXEMPTION FROM TAXATION

1. The sending State shall be exempt by the receiving State from all taxes or similar charges of any kind in respect of:

- land, premises or part thereof, used exclusively for consular purposes including the residential premises of consular officers and employees of the consulate provided that the said property belongs to or is rented on behalf of the sending State or any natural or juridical person acting on behalf of that State;
- transactions or instruments relating to the acquisition of the said immovable property provided that the sending State acquires this property exclusively for consular purposes.

2. The provisions of paragraph 1 of the present article shall not apply to payments for specific services.

*Article 21. EXEMPTION FROM TAXATION
OF MOVABLE PROPERTY*

The receiving State shall not impose or levy taxes or similar charges of any kind in respect of movable property which belongs to the sending State or

which is in its ownership or use and employed for consular purposes, as well as in respect of acquisition of such property, which would otherwise be legally payable by the sending State.

Article 22. EXEMPTION FROM TAXATION
WITH RESPECT TO SALARIES

A consular officer or an employee of the consulate, provided that he is not a national of the receiving State, shall be exempt in the receiving State from taxes and similar charges of any kind imposed or collected by the receiving State with respect to salaries received by him for the performance of his official duties.

Article 23. EXEMPTION FROM TAXATION
OF CONSULAR OFFICERS, ETC.

A consular officer or an employee of the consulate and members of their families forming part of their households not being nationals of the receiving State shall be exempt in the receiving State from taxes or similar charges of any kind whether state, provincial or local. The said persons shall also be exempt from taxes or levies with respect to movable property owned by them.

Article 24. EXEMPTION FROM CUSTOMS DUTIES

1. All items, including means of transport imported for the official use of the consulate, shall be exempt from customs duties and other charges of any kind imposed in connection with import or for the reason of import same as items imported for the official use of the diplomatic mission of the sending State in the receiving State.

2. A consular officer or an employee of the consulate as well as members of the family of such consular officer or employee of the consulate forming part of their households, provided they are not nationals of the receiving State, enjoy the same exemption from customs duties and other charges of any kind imposed in connection with import or for the reason of import as granted to the corresponding personnel categories of the diplomatic mission of the sending State.

3. In paragraph 2 of the present article the term "the corresponding personnel categories of the diplomatic mission" refers to members of the diplomatic personnel if the persons involved are consular officers and to administrative and technical staff if the persons are employees of the consulate.

4. The provisions of paragraphs 1 and 2 of this article shall not apply with respect to charges for storage, cartage and other similar services.

5. Goods and articles imported for personal use and consumption by consular officers or employees of the consulate shall not exceed the quantities necessary for direct utilization.

Article 25. RESPECT FOR LAWS AND REGULATIONS
OF THE RECEIVING STATE

Every person entitled to privileges and immunities under the present Convention without prejudice to his privileges and immunities is obliged to respect the laws and regulations of the receiving State, including the laws and regulations governing the movement of means of transport and their insurance.

Article 26. FREEDOM OF MOVEMENT

So far as it is not in contradiction with the laws and regulations of the receiving State as regards the areas, access to which is prohibited or limited for reasons of state security, a consular officer must be allowed free movement within the boundaries of his consular district for the performance of his official duties.

SECTION IV. CONSULAR FUNCTIONS

Article 27

1. A consular officer shall be entitled within the boundaries of the consular district to exercise the functions specified in the present section. A consular officer may, in addition, exercise other official consular functions, provided that they are not in contradiction with the laws of the receiving State.

2. In connection with the exercise of his functions, a consular officer shall be entitled to apply in writing or orally to the competent authorities of the consular district.

Article 28

A consular officer shall be entitled within the consular district:

- (1) to protect the rights and interests of the sending State, its nationals and juridical persons;
- (2) to further the development of trade, economic, cultural and scientific relations between the sending State and the receiving State, to further the development of tourism and to otherwise promote the development of friendly relations between them.

Article 29

1. A consular officer within his consular district shall be entitled to:

- (a) receive such declarations as may be required under the law of the sending State relative to nationality;
- (b) register nationals of the sending State;
- (c) issue, renew and invalidate passports as well as entry, exit or transit visas and other similar documents and to amend them;
- (d) register or receive notifications of the birth or death of nationals of the sending State;

- (e) register a marriage or dissolve it, provided that both persons are nationals of the sending State;
- (f) receive any declarations pertaining to the family relationships of nationals of the sending State in accordance with the law of the sending State;
- (g) legalize documents.

2. The consul notifies the competent authorities of the receiving State of registrations made at the consulate under sub-paragraphs “d” and “e” of paragraph 1 of the present article if such notification is required by the local laws.

Article 30

1. A consular officer shall be entitled within his consular district to perform notarial acts envisaged by the law of the sending State:

- (a) at the request of a person of any nationality for the use in the sending State;
- (b) at the request of the nationals of the sending State for the use outside of that State.

2. A consular officer shall be entitled to translate documents and to certify to the accuracy of the translations.

Article 31

The documents drawn up or certified or translated by the consular officer under article 30 of the present Convention shall be considered in the receiving State of the consular officer as documents having the same legal and evidential force as if they were drawn up, translated or certified by the competent authorities and agencies of the receiving State.

Article 32

1. The competent authorities of the receiving State shall notify the consular officer of the death of a national of the sending State and shall give him information on the estate, the heirs as well as the existence of a will.

2. The competent authorities shall inform the consular officer of an estate left in the receiving State when the heir is a national of the sending State.

This also applies to the cases when the competent authorities learn of an estate left to a national of the sending State in the territory of a third State.

Article 33

1. Where a national of the sending State is entitled to or claims a share in the property left in the receiving State after the death of a person of any nationality, and if he is not present in the receiving State and not otherwise represented in that State, a consular officer shall have the right to represent the interests of such national to the same extent as if a power of attorney had

been executed by him in favour of the consular officer. Such representation shall cease to be operative as from the date when the consular officer is informed that such national defends his interests in the receiving State either in person or by a duly appointed designated attorney.

2. If a national of the sending State dies while travelling in the receiving State without being resident in that State, a consular officer shall have the right to dispose of the money and effects in the personal possession of the deceased under the laws of the sending State.

Article 34

A consular officer may, on behalf of a national of the sending State, if such national is not present in the receiving State, receive from a court, authorities or an individual, money or other property to which such national is entitled as a consequence of the death of any person, including a share in the estate, payments under workmen's compensation laws and proceeds of life insurance policies. An appropriate court, authority or individual may require that a consular officer comply with conditions which may be laid down with regard to:

- (a) presenting a power of attorney or other authorization from such national of the sending State;
- (b) furnishing evidence of the receipt of money or other property by the person concerned;
- (c) returning the money or other property in the absence of such evidence.

Article 35

1. A consular officer may recommend to the courts or other competent authorities of the receiving State appropriate persons to act in the capacity of guardians or trustees for citizens of the sending State or for the property of such citizens when this property is left without supervision.

2. If the court or competent authorities consider that the recommended person is for some reason unacceptable, the consular officer may propose a new candidate.

Article 36

1. (a) A consular officer shall have the right within his consular district to meet and communicate with any national of the sending State, to advise him and render all necessary assistance including, where necessary, measures for arranging to [provide for] him legal assistance.

(b) The receiving State shall in no way restrict the communication of the national of the sending State with the consulate and his access to the consulate.

2. The competent authorities of the receiving State shall immediately inform the appropriate consular officer of the sending State of the arrest or detention in other form of a national of the sending State.

3. A consular officer shall have the right without delay to visit and communicate with a national of the sending State who is under arrest or otherwise detained in custody or is serving a sentence of imprisonment. The rights referred to in this paragraph shall be exercised in conformity with the laws and regulations of the receiving State, subject to the *proviso*, however, that the said laws and regulations must not nullify these rights.

Article 37

1. A consular officer shall have the right to provide every assistance and aid to a vessel of the sending State which has entered a port or other place of anchorage within his consular district.

2. A consular officer may proceed on board the vessel after she has received *pratique*, and the master and members of the crew may communicate with the consular officer.

3. A consular officer may invoke the assistance of the competent authorities of the receiving State in any matter pertaining to the performance of his duties as regards vessels of the sending State, masters and members of the crews of these vessels.

Article 38

A consular officer shall have the right within his consular district :

- (a) without prejudice to the powers of the authorities of the receiving State, to conduct investigations into any incidents which occurred during the voyage on vessels of the sending State, to question the master and any member of the crew of a vessel of the sending State, to examine the vessel's papers, to take statements with regard to her voyage and destination and also to facilitate the entry into, stay in, and departure from, a port of the vessel;
- (b) without prejudice to the powers of the authorities of the receiving State, to settle disputes of any kind between the master and any member of the crew, including disputes as to wages and contracts of hiring insofar as this may be authorized by the law of the sending State;
- (c) to make arrangements for the treatment in a hospital and for the repatriation of the master or any member of the crew of a vessel;
- (d) to receive, draw up or certify any declaration or other document prescribed by the law of the sending State in regard to vessels.

Article 39

1. In the event that the courts or other competent authorities of the receiving State intend to take any coercive action or to start any official investigation on board a vessel of the sending State, the competent authorities of the receiving State shall notify an appropriate consular officer accordingly. Such notification is made prior to initiating such action so that the consular officer or his

representative may be present when the action is taken. If the consular officer or his representative has not been present, he shall, upon request, be provided by the competent authorities of the receiving State with full information with regard to what has taken place.

2. The provisions of paragraph 1 of this article shall also apply if the master or members of the crew of the vessel are to be questioned ashore by the authorities of the port locality.

3. The provisions of this article shall not, however, apply to the regular customs, passport or sanitary inspection or to any action taken at the request or with the approval of the master of the vessel.

Article 40

1. If a vessel of the sending State suffers shipwreck, runs aground or is swept ashore, or suffers any other accident in the receiving State, or if any article forming part of the cargo of the 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 competent authorities of the receiving State shall as soon as possible inform an appropriate consular officer. They shall also inform the consular officer of the measures which have already been taken to rescue persons, vessel, cargo and other property on board and articles belonging to the vessel or forming part of her cargo which have become separated from the vessel.

2. The consular officer may provide all kinds of assistance to such a vessel, its passengers and the members of its crew. To this end he may request the competent authorities of the receiving State to render assistance.

The consular officer may take measures mentioned in paragraph 1 of this article as well as measures in connection with the repair of the vessel or may request the competent authorities to take or continue to take such measures.

3. (a) If the wrecked vessel or any article belonging thereto has been found on or near the coast of the receiving State or brought into a port of that State and neither the master of the vessel, the owner, his agent nor the underwriters concerned are in a position to make arrangements for the preservation or disposal of such vessel or article, the consular officer shall be deemed to be authorized to make, on behalf of the owner of the vessel, such arrangements as the owner himself could have made for such purposes.

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

4. If any article forming part of the cargo of a wrecked vessel of a third state is the property of a national of the sending State and is found on or near the coast of the receiving State or is brought into a port of that State, and neither the master of the vessel, the owner of the article, his agent nor the underwriters concerned are in a position to make arrangements for the preservation or disposal of such article, the consular officer shall be deemed to be authorized to make, on behalf of the owner, such arrangements as the owner himself could have made for such purposes.

Article 41. CONSULAR FUNCTIONS
WITH RESPECT TO AIRCRAFT

Articles 37-40, respectively, shall also apply to aircraft.

SECTION V. FINAL PROVISIONS

Article 42. RATIFICATION

1. The present Convention shall be subject to ratification and shall enter into force on the thirtieth day following the exchange of instruments of ratification, which shall take place in Mogadishu as soon as possible.

2. The Convention shall remain in force until six months from the date on which one of the High Contracting Parties informs the other High Contracting Party of its desire to terminate its validity.

IN WITNESS WHEREOF the Plenipotentiaries of the two High Contracting Parties have signed the present Convention and affixed their seals thereto.

DONE at Moscow on November 19, 1971 in two copies, each in the Russian and English languages, both texts being equally authentic.

For the Union of Soviet
Socialist Republics:

[*Signed*]

Minister for Foreign Affairs
of the USSR
A. GROMYKO

For the Somali
Democratic Republic:

[*Signed*]

Secretary of State
for Foreign Affairs
OMAR ARTEH GHALIB

PROTOCOL

TO THE CONSULAR CONVENTION BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE SOMALI DEMOCRATIC REPUBLIC

The High Contracting Parties have agreed as follows:

1. The notification of a consular officer under paragraph 2 of article 36 of the Convention shall take place within three days from the time of arrest or detention in other form of a national of the sending State.

2. The rights of a consular officer specified in paragraph 3 of article 36 of the Convention to visit and communicate with a national of the sending State when he is under arrest or otherwise detained shall be accorded within four days from the time of the arrest or detention.

3. The rights of a consular officer specified in paragraph 3 of article 36 of the Convention to visit and communicate with a national of the sending State when he is under arrest or otherwise detained or is serving a sentence of imprisonment shall be accorded on a continuing basis.

The present Protocol constitutes an integral part of the Consular Convention between the Union of Soviet Socialist Republics and the Somali Democratic Republic of November 19, 1971.

DONE at Moscow on November 19, 1971 in two copies, each in the Russian and English languages, both texts being equally authentic.

For the Union of Soviet
Socialist Republics:

[Signed]

Minister for Foreign Affairs
of the USSR

A. GROMYKO

For the Somali
Democratic Republic:

[Signed]

Secretary of State
for Foreign Affairs

OMAR ARTEH GHALIB