

No. 13495

MONGOLIA
and
GERMAN DEMOCRATIC REPUBLIC

Consular Convention. Signed at Ulan Bator on 12 October 1973

Authentic texts: Mongolian and German.

Registered by Mongolia on 11 September 1974.

MONGOLIE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE

Convention consulaire. Signée à Oulan-Bator le 12 octobre 1973

Textes authentiques: mongol et allemand.

Enregistrée par la Mongolie le 11 septembre 1974.

[TRANSLATION — TRADUCTION]

CONSULAR CONVENTION¹ BETWEEN THE MONGOLIAN PEOPLE'S REPUBLIC AND THE GERMAN DEMOCRATIC REPUBLIC

The Mongolian People's Republic and the German Democratic Republic,

Desiring further to develop friendly relations in accordance with the Treaty of friendship and co-operation between the Mongolian People's Republic and the German Democratic Republic, signed at Ulan Bator on 12 September 1968², and

Having regard to the need to renew the Consular Convention between the Mongolian People's Republic and the German Democratic Republic, signed at Ulan Bator on 7 January 1963.

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

The Presidium of the Great People's Khural of the Mongolian People's Republic:
Lodongyn Rinchin, Minister for Foreign Affairs of the Mongolian People's Republic,

The President of the Council of State of the German Democratic Republic: Oskar Fischer, State Secretary and Permanent Deputy Minister for Foreign Affairs of the German Democratic Republic,

Who, having exchanged their full powers, found in good and due form, have agreed as follows:

CHAPTER I. DEFINITIONS

Article 1. For the purposes of this Convention, the following expressions shall have the meanings hereunder assigned to them:

1. "Consular post" means any consulate-general, consulate, vice-consulate or consular agency;

2. "Consular district" means the area within which a consular officer is entitled to exercise consular functions;

3. "Head of consular post" means the person charged with the duty of acting in that capacity;

4. "Consular officer" means any person, including the head of a consular post, entrusted with the exercise of consular functions. The expression "consular officer" also includes any person assigned to a consular post as a trainee;

5. "Consular employee" means any person, other than a consular officer, performing administrative or technical duties at the consular post. The expression

¹ Came into force on 9 June 1974, i.e., the thirtieth day after the exchange of the instruments of ratification, which took place at Berlin on 10 May 1974, in accordance with article 41 (1).

² United Nations, *Treaty Series*, vol. 659, p. 301.

“consular employee” also includes any person employed as a driver, servant or gardener or performing other service duties for the consular post;

6. “National of the sending State” includes bodies corporate;

7. “Consular premises” means buildings or parts of buildings, including the residence of the head of the consular post, and land ancillary thereto, irrespective of ownership, used exclusively for consular purposes;

8. “Consular archives” means all official correspondence, ciphers, documents, books and technical devices, together with any article of furniture intended for their safekeeping;

9. “Vessel” means any vessel flying the flag of the sending State;

10. “Aircraft” means any aircraft bearing the identifying marks of the sending State.

CHAPTER II. ESTABLISHMENT OF CONSULAR POSTS, APPOINTMENT AND TERMINATION OF FUNCTIONS OF CONSULAR OFFICERS AND CONSULAR EMPLOYEES

Article 2. 1. A consular post may be established in the receiving State only with that State’s consent.

2. The seat of the consular post, its classification and the consular district, and any change therein, shall be established on the basis of an agreement between the sending State and the receiving State.

Article 3. 1. Prior to the appointment of the head of a consular post by the sending State, approval of the appointment shall be obtained from the receiving State.

2. After such approval has been obtained, the sending State shall transmit to the receiving State the consular commission, or other instrument of appointment of the head of the consular post, indicating his class, the consular district within which he will exercise his functions, and the seat of the consular post.

3. After presentation of the consular commission or other instrument of appointment of the head of a consular post, the exequatur or other authorization shall be delivered to him as soon as possible by the receiving State.

4. The head of a consular post may take up his duties once the receiving State has delivered the exequatur or other authorization.

5. Pending delivery of the exequatur or other authorization, the receiving State may permit the head of a consular post to exercise his functions on a provisional basis.

Article 4. The full name, class and official functions of all consular officers, other than a person appointed as head of a consular post, shall be notified by the sending State to the receiving State.

Article 5. Only nationals of the sending State may be consular officers.

Article 6. The receiving State may at any time notify the sending State that the exequatur or other authorization granted to the head of a consular post has been withdrawn or that a consular officer or consular employee is unacceptable. In that event, the sending State shall recall, or terminate the functions of, the consular officer or consular employee concerned if he has already taken up his duties.

CHAPTER III. PRIVILEGES AND IMMUNITIES

Article 7. The receiving State shall afford the requisite protection to consular officers and consular employees and shall take the necessary steps to enable consular officers and consular employees to exercise their functions and to enjoy their rights, privileges and immunities as provided for in this Convention and in the laws of the receiving State.

Article 8. 1. If the head of a consular post is unable for any reason to carry out his functions or the position of head of consular post is temporarily vacant, the sending State may authorize a consular officer of the same or another consular post in the receiving State, or a member of the diplomatic staff of its diplomatic mission in the receiving State, to act provisionally as head of the consular post. The receiving State shall be notified in advance by the sending State.

2. The person authorized to act provisionally as head of the consular post shall enjoy the same rights, privileges and immunities as are accorded under this Convention to the head of a consular post.

3. The assignment of a member of the diplomatic staff of the diplomatic mission to a consular post in accordance with paragraph 1 of this article shall not affect the privileges and immunities accorded to him by virtue of his diplomatic status.

Article 9. 1. The rights and obligations of consular officers provided for in this Convention shall also extend to members of the diplomatic staff of the diplomatic mission of the sending State who are entrusted with consular functions.

2. The assumption of consular functions by persons referred to in paragraph 1 of this article shall not affect the privileges and immunities to which they are entitled by virtue of their diplomatic status.

Article 10. The sending State may, in accordance with the laws of the receiving State, acquire or rent consular premises and residences for consular officers or consular employees, provided that they are nationals of the sending State and are not permanently resident in the receiving State. For this purpose, the receiving State shall render aid and assistance to the sending State.

Article 11. 1. The national coat-of-arms and the designation of the consular post in the languages of the sending State and of the receiving State may be affixed to the building of the consular post.

2. The flag of the sending State may be flown on the building of the consular post and on the residence of the head of the consular post.

3. The head of the consular post may fly the flag of the sending State on the vehicles used by him.

Article 12. 1. Consular premises shall be inviolable. The authorities of the receiving State shall not enter the consular premises without the consent of the head of the consular post, the head of the diplomatic mission of the sending State or a person designated by one of them.

2. The provisions of paragraph 1 of this article shall also apply to the residential quarters of consular officers and consular employees, provided that they are not nationals of or permanently resident in the receiving State.

Article 13. Consular archives shall be inviolable at all times and wherever they may be.

Article 14. 1. A consular post shall have the right to communicate with its Government or with the diplomatic missions and other consular posts, wherever situated, of the sending State. For this purpose, the consular post may employ all ordinary means of communication, ciphers, couriers and the consular bag. A wireless station may be installed and used only with the consent of the receiving State. The consular post shall be charged the same rates as the diplomatic mission for the use of ordinary means of communication.

2. Official correspondence of the consular post, and the consular bag, bearing visible marks of their official character shall be inviolable and shall be neither inspected nor detained by the authorities of the receiving State, irrespective of the means of communication employed.

3. The receiving State shall accord to consular couriers the same rights, privileges and immunities as it accords to diplomatic couriers of the sending State.

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

Article 15. Consular officers shall enjoy personal inviolability. Consular employees shall likewise enjoy personal inviolability, provided that they are not nationals of or permanently resident in the receiving State. Such persons shall not be liable to arrest or to detention pending trial. The receiving State shall be required to treat them with due respect and to take appropriate steps for the protection of their person, freedom and dignity.

Article 16. 1. Consular officers and consular employees, provided that they are not nationals of or permanently resident in the receiving State, shall enjoy immunity from the jurisdiction of the receiving State and from all State measures of constraint by the receiving State, except in the case of:

(a) An action relating to private immovable property situated in the receiving State, unless it is used on behalf of the sending State for consular purposes;

- (b) An action relating to succession in which a consular officer or consular employee is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
- (c) An action relating to any professional or commercial activity exercised by a consular officer or consular employee in the receiving State outside his official functions.

2. No measures of execution may be taken in respect of a consular officer or a consular employee, not being a national of or permanently resident in the receiving State, except in the cases coming under paragraph 1, subparagraphs (a), (b) and (c), and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.

3. Members of the family of a consular officer or of a consular employee forming part of his household, provided that they are not nationals of or permanently resident in the receiving State, shall enjoy immunity from the jurisdiction of, and all State measures of constraint by, the receiving State, and personal inviolability, to the same extent as they are enjoyed by a consular officer or a consular employee, provided that he is not a national of or permanently resident in the receiving State.

4. The sending State may waive the immunity of consular officers and consular employees and members of their families. The waiver must in all cases be expressed in due form. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not imply waiver of immunity in respect of the execution of the judgement, for which a separate waiver shall be necessary.

Article 17. 1. A consular officer shall not be required to give evidence as a witness.

2. If the sending State agrees to the giving of evidence by a consular officer or a consular employee who is not a national of or permanently resident in the receiving State, he may give evidence when requested by the receiving State.

3. If a consular officer or a consular employee who is not a national of or permanently resident in the receiving State declines to appear as a witness before the courts or other competent authorities of the receiving State, no coercive measure of any kind may be applied to him nor may he be called to account.

4. A consular employee who is a national of or permanently resident in the receiving State may decline to give evidence concerning official matters.

5. In the implementation of the provisions of paragraph 2 of this article, appropriate steps shall be taken to avoid interference with the work of the consular post. When possible, oral or written evidence may be given at the consular post or at the residence of the consular officer or consular employee concerned.

6. The provisions of this article shall apply to all proceedings conducted by State authorities.

7. The provisions of this article shall apply *mutatis mutandis* to members of the family of a consular officer or consular employee, provided that they form part of his household and are not nationals of or permanently resident in the receiving State.

Article 18. 1. Consular officers shall be exempt in the receiving State from all public service.

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

Article 19. Consular officers and consular employees, and members of their families forming part of their households who are nationals of the sending State but are not permanently resident in the receiving State, shall not be subject to any requirements under the laws of the receiving State in regard to the registration of aliens and residence permits.

Article 20. 1. The receiving State shall exempt the sending State from all taxes and other dues in respect of:

- Consular premises and residential quarters for consular officers or consular employees, provided that the premises and property in question are owned by or rented in the name of the sending State;
- Contracts and instruments relating to the acquisition of such immovable property, provided that the sending State acquires it solely for consular purposes.

2. The provisions of paragraph 1 of this article shall not apply to the payment of charges for miscellaneous services rendered.

Article 21. The receiving State shall exempt the sending State from all taxes and similar dues in respect of movable property which is owned by the sending State or is in its possession or at its disposal and which is used for consular purposes. The same shall apply to the acquisition of movable property in respect of which the sending State would otherwise be legally liable for the payment of such taxes and dues.

Article 22. A consular officer or a consular employee, provided that he is not a national of or permanently resident in the receiving State, shall not be required to pay to the receiving State any taxes or dues on his official income.

Article 23. 1. Consular officers and consular employees and members of their families forming part of their households, provided that they are not nationals of or permanently resident in the receiving State, shall be exempt from all national and local taxes and dues.

2. The exemptions referred to in paragraph 1 of this article shall not apply to:

- (a) Indirect taxes of a kind which are normally incorporated in the price of goods or services;
- (b) Taxes in respect of land and buildings in the receiving State, unless an exemption is granted under article 20;

- (c) Succession duties or property taxes in respect of property in the receiving State;
- (d) Taxes in respect of private income having its source in the receiving State;
- (e) Court fees and all State dues in respect of legal transactions or the instruments relating thereto, unless an exemption is provided for in article 20;
- (f) Charges or dues for services rendered.

Article 24. 1. All articles, including motor vehicles, imported for the official use of the consular post shall be exempt from customs duties and taxes levied in connexion with or by reason of importation to the same extent as articles imported for the official use of the diplomatic mission.

2. Consular officers and members of their families shall be exempt from customs controls. Consular officers and consular employees, and members of their families forming part of their households, shall, provided that they are not nationals of or permanently resident in the receiving State, be exempt in respect of their baggage and other articles intended for personal use from customs duties and taxes levied in connexion with or by reason of importation to the same extent as the corresponding categories of the staff of a diplomatic mission.

3. For the purpose of paragraph 2 of this article, "corresponding category of the staff of the diplomatic mission" means members of the diplomatic staff in the case of consular officers and members of the administrative and technical staff in the case of consular employees.

Article 25. All persons enjoying privileges and immunities under this Convention shall, without prejudice to such privileges and immunities, be under an obligation to respect the laws of the receiving State, including those relating to traffic and to the insurance of motor vehicles.

Article 26. The receiving State shall ensure freedom of movement and travel in its territory to consular officers and consular employees, provided that there is nothing contrary thereto in its laws concerning sojourn in zones entry into and sojourn in which is prohibited or restricted for reasons of national security.

CHAPTER IV. CONSULAR FUNCTIONS

Article 27. 1. Consular officers shall promote the strengthening of friendly relations between the Contracting Parties and shall contribute to the all-round development and deepening of fraternal co-operation in the political, economic, scientific, cultural, legal, touristic and other fields.

2. A consular officer shall have the right to exercise, within the consular district, the functions specified in this chapter. He may also exercise other consular functions, provided that there is nothing contrary thereto in the laws of the receiving State.

3. A consular officer may, with the consent of the receiving State, also exercise functions outside the consular district.

4. In the exercise of his consular functions, a consular officer may address directly, in writing or orally, the competent authorities of the consular district, including offices of the central State authorities.

5. A consular officer shall be entitled to levy consular fees in accordance with the laws of the sending State.

Article 28. A consular officer shall have the right, within the consular district to protect the rights and interests of the sending State and of its nationals, including bodies corporate.

Article 29. 1. A consular officer shall have the right, within his consular district:

- (a) To keep a register of nationals of the sending State;
- (b) To receive applications or issue documents relating to nationality in accordance with the laws of the sending State;
- (c) To issue, renew, amend and cancel passports and other travel documents and entry, exit and transit visas;
- (d) To solemnize marriages in accordance with the laws of the sending State, provided that the parties are nationals of the sending State, and to register divorces;
- (e) To keep registers of births and deaths of nationals of the sending State;
- (f) To receive declarations relating to the family affairs of nationals of the sending State in accordance with the laws of the sending State.

2. The head of the consular post shall notify the competent authorities of the receiving State of the performance of acts provided for in paragraph 1, subparagraphs (d) and (e), of this article, if the laws of the receiving State so require.

Article 30. The consular officer shall have the right, in accordance with the laws of the sending State and the Treaty concluded between the Mongolian People's Republic and the German Democratic Republic concerning legal assistance in civil, family and criminal cases¹, to take the necessary steps for the institution of adoption proceedings and to make arrangements for guardianships and trusteeships.

Article 31. 1. A consular officer shall have the right, within the consular district, to perform notarial acts in accordance with the laws of the sending State;

- (a) For persons of any nationality for use in the sending State;
- (b) For nationals of the sending State for use abroad.

2. A consular officer shall have the right to translate documents or certify the accuracy of translations and to legalize documents.

Article 32. Documents drawn up, translated or certified by a consular officer in accordance with article 31 of this Convention shall be regarded in the

¹ United Nations, *Treaty Series*, vol. 718, p. 153.

receiving State of the consular officer as having the same legal validity and evidential value as documents drawn up, translated or certified by the competent authorities or institutions of the receiving State.

Article 33. Notification of the death of a national of the sending State occurring in the receiving State, and the competence of a consular officer in matters relating to succession, shall be governed by the Treaty concluded between the Mongolian People's Republic and the German Democratic Republic concerning legal assistance in civil, family and criminal cases.

Article 34. A consular officer shall have the right, within the consular district, to represent nationals of the sending State before the authorities of the receiving State where, because of absence or for other valid reasons, such nationals are unable at the proper time to assume the defence of their rights and interests. Such representation shall continue until such time as the persons represented appoint their own agents or themselves assume the defence of their rights and interests.

Article 35. 1. A consular officer shall have the right, within the consular district, to establish and maintain communication with any national of the sending State, advise him and render all aid to him and, if necessary, take steps to provide him with legal assistance.

2. The competent authorities of the receiving State shall, without delay, inform a consular officer of the sending State of the arrest or the detention pending trial of a national of the sending State.

3. A consular officer shall have the right to visit as soon as possible a national of the sending State who has been arrested or detained pending trial or is serving a term of imprisonment and to maintain communication with him. These rights shall be exercised in conformity with the laws of the receiving State, subject to the proviso that the said laws must not negate such rights.

Article 36. 1. A consular officer shall have the right, within the consular district, to extend all aid and assistance to a vessel of the sending State in a port of the receiving State or in the territorial sea or internal waters of that State.

2. A consular officer may board the vessel as soon as it has received *pratique*. The master of the vessel and members of the crew may establish communication with the consular officer.

3. In the exercise of his functions, a consular officer may request assistance from the competent authorities of the receiving State in all matters relating to vessels of the sending State and to the master, members of the crew and passengers of such a vessel.

Article 37. A consular officer shall have the right, within the consular district:

(a) Without prejudice to the rights of the authorities of the receiving State, to investigate any incidents which occurred during the voyage of a vessel of the sending State, to question the master and members of the crew, to examine

- the ship's papers, to take statements concerning the route and destination of the vessel and to extend assistance in connexion with the vessel's entry into, departure from and stay in port;
- (b) Without prejudice to the rights of the authorities of the receiving State, to settle any dispute between the master and a member of the crew, including disputes relating to wages and the contract of hire, in so far as this may be authorized by the laws of the sending State;
 - (c) To take steps to obtain medical treatment or repatriation to the sending State for the master, a member of the crew or a passenger;
 - (d) To receive, draw up or certify any statements or documents provided for under the shipping legislation of the sending State.

Article 38. 1. If the competent authorities of the receiving State deem it necessary to carry out measures of constraint or conduct an investigation on board a vessel of the sending State, the consular officer shall be notified in advance by the competent authorities of the receiving State in order that he or his representative may be present during the operation unless the urgency of the matter precludes such advance notification. If the consular officer or his representative was not present, the competent authorities of the receiving State shall give him a complete account of the events.

2. The provisions of paragraph 1 of this article shall also apply if the master of the vessel or members of the crew are to be questioned ashore by the competent authorities concerning incidents on board the vessel.

3. The provisions of this article shall not apply to customs, passport or health controls or to any other actions taken at the request or with the consent of the master of the vessel.

Article 39. 1. If a vessel of the sending State is wrecked, runs aground or suffers any other damage in the receiving State, or if any article which forms part of the cargo of a damaged vessel of the sending State, of the receiving State or of a third State is owned by a national of the sending State and is found as flotsam on the coast or in the waters of the receiving State or is brought into a port of that State, the competent authorities of the receiving State shall immediately notify the consular officer. They shall also inform the consular officer of any measures taken to save the persons on board, the vessel, the cargo and other property, as well as parts of the vessel and parts of the cargo which have become separated from the vessel.

2. A consular officer may extend all assistance to a damaged vessel of the sending State, the members of its crew and its passengers. For this purpose, he may request assistance from the competent authorities of the receiving State.

A consular officer may take measures pursuant to paragraph 1 of this article, including measures for the repair of the vessel. He may request the competent authorities of the receiving State to take, or continue to take, such measures.

3. If a damaged vessel of the sending State or any article which forms part of such a vessel 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 nor the owner, his agent or the underwriters concerned are in a position to take measures for the custody

or disposal of such vessel or such article, the consular officer shall be deemed to be authorized to take, on behalf of the owner of the vessel, such measures as the owner himself might cause to be taken to that end.

The provisions of this paragraph shall also apply to any article which forms part of the cargo of the vessel and which is owned by a national of the sending State.

4. If any article which forms part of the cargo of a damaged vessel of the sending State, of the receiving State or of a third State and which is owned by 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 and neither the master of the vessel nor the owner of the article, his agent or the underwriters are in a position to take measures for the custody or disposal of such article, the consular officer shall be deemed to be authorized to take, on behalf of the owner, such measures as the owner himself might cause to be taken to that end.

Article 40. The provisions of articles 36 to 39 shall apply *mutatis mutandis* to aircraft.

CHAPTER V. FINAL PROVISIONS

Article 41. 1. This Convention shall be ratified. It shall enter into force on the thirtieth day after the exchange of instruments of ratification, which shall take place at Berlin.

2. This Convention shall remain in force until the expiry of a period of six months from the date on which one of the High Contracting Parties notifies the other High Contracting Party of its intention to denounce the Convention.

3. Upon the entry into force of this Convention, the Consular Convention concluded between the Mongolian People's Republic and the German Democratic Republic at Ulan Bator on 7 January 1963 shall cease to have effect.

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

DONE at Ulan Bator, on 12 October 1973, in duplicate in the Mongolian and German languages, both texts being equally authentic.

For the Presidium
of the Great People's Khural
of the Mongolian
People's Republic:

[LODONGYN RINCHIN]

For the President
of the Council of State
of the German Democratic
Republic:

[OSKAR FISCHER]