

No. 16845

**POLAND
and
CUBA**

Consular Convention. Signed at Havana on 12 May 1972

Authentic texts: Polish and Spanish.

Registered by Poland on 13 July 1978.

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[TRANSLATION—TRADUCTION]

CONSULAR CONVENTION¹ BETWEEN THE POLISH PEOPLE'S
REPUBLIC AND THE REPUBLIC OF CUBA

The Polish People's Republic and the Republic of Cuba,

Guided by the desire to regulate their consular relations and develop them in a spirit of friendship, co-operation and mutual respect,

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

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

Marian Renke, Ambassador Extraordinary and Plenipotentiary of the Polish People's Republic at Havana;

The President of the Republic of Cuba:

Dr. Raúl Roa García, Minister for Foreign Affairs

who have agreed as follows:

CHAPTER I. DEFINITIONS

Article 1

For the purpose of this Convention, the following expressions shall have the meanings hereunder assigned to them:

(a) "Consular post" means any consulate-general, consulate, vice-consulate or consular agency;

(b) "Consular district" means the area assigned to a consular post for the exercise of consular functions;

(c) "Head of consular post" means the consul-general, consul, vice-consul or consular agent appointed as such;

(d) "Consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions;

(e) "Consular employee" means any person employed in the administrative, technical or domestic service of a consular post;

(f) "Members of the consular post" means consular officers and consular employees;

(g) "Consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post;

(h) "Consular archives" means all papers, documents, ciphers and codes, card-indexes, registers, correspondence, papers, books, seals, stamps, films, recording cassettes and tapes, discs and the safes and furniture intended for their storage, preservation and protection;

(i) "Official correspondence" means all correspondence relating to a consular post and its functions;

¹ Came into force on 28 April 1975, i.e., 30 days after the date of the exchange of the instruments of ratification, which took place at Warsaw, in accordance with article 50 (1).

(j) “Vessel of the sending State” means any civil water craft or aircraft entitled to fly the flag of the sending State or registered therein.

CHAPTER II. ESTABLISHMENT OF CONSULAR POSTS AND APPOINTMENT OF THEIR OFFICERS AND EMPLOYEES

Article 2. ESTABLISHMENT OF CONSULAR POSTS

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

2. The seat of the consular post, its classification and the consular district shall be established by the sending State and shall be subject to the approval of the receiving State.

3. Subsequent changes in the seat of the consular post, its classification or the consular district may be made only by agreement between the sending State and the receiving State.

Article 3. APPOINTMENT AND ADMISSION OF THE HEAD OF A CONSULAR POST

1. Before appointing the head of a consular post, the sending State shall seek assurance through the diplomatic channel that the receiving State has approved the person proposed.

2. The sending State shall transmit the consular commission through the diplomatic channel to the Ministry of Foreign Affairs of the receiving State with a view to obtaining an exequatur.

3. The consular commission shall specify the full name and rank of the head of the consular post, the seat of the consular post and the consular district.

4. The head of the consular post shall be admitted to the exercise of consular functions only after the receiving State has granted him an exequatur. However, the head of the consular post may perform consular functions on a temporary basis pending delivery of the exequatur.

Article 4. TEMPORARY EXERCISE OF THE FUNCTIONS OF THE HEAD OF A CONSULAR POST

1. If the head of a consular post is unable to carry out his functions for any reason or the position of head of consular post is vacant, the sending State may authorize a consular officer belonging to the same consular post or to another consular post or a member of the diplomatic staff of its diplomatic mission to act provisionally as head of the consular post; the name of the person concerned shall be notified in advance to the Ministry of Foreign Affairs of the receiving State.

2. The provisional head of the consular post shall enjoy the facilities, privileges and immunities which are accorded to the head of a consular post under this Convention.

3. The consular functions assigned under paragraph 1 to a member of the diplomatic mission of the sending State shall not limit the privileges and immunities to which he is entitled by reason of his diplomatic status.

Article 5. NOTIFICATION TO THE AUTHORITIES OF THE CONSULAR DISTRICT

As soon as the head of the consular post is admitted, even if provisionally, to the exercise of his functions, the receiving State shall immediately notify the competent authorities of the consular district and shall take the necessary measures to enable him to perform his official functions and to enjoy the benefit of the provisions of this Convention.

Article 6. NATIONALITY OF CONSULAR OFFICERS AND CONSULAR EMPLOYEES

1. Consular officers must be nationals only of the sending State.
2. Consular employees may be nationals only of the sending State or of the receiving State.
3. Consular officers and consular employees who are nationals of the sending State shall not engage in any private commercial activity or any other gainful occupation.

Article 7. TERMINATION OF THE ACTIVITIES OF CONSULAR OFFICERS
AND CONSULAR EMPLOYEES

The receiving State may at any time, without being required to explain the reason for its decision, notify the sending State through the diplomatic channel that an exequatur or other authorization granted to the head of a consular post has been withdrawn or that a consular officer or consular employee has been declared *persona non grata*. In such case the sending State shall recall the person concerned if he has begun to exercise his functions. If the sending State fails to carry out that obligation within a reasonable period, the receiving State may cease to consider that person a consular officer or consular employee.

Article 8. NOTIFICATION TO THE RECEIVING STATE OF APPOINTMENTS,
ARRIVALS AND DEPARTURES

The Ministry of Foreign Affairs of the receiving State shall be notified in writing of the following:

- (a) The appointment of members of a consular post, their arrival at the consular post after appointment, their final departure or the termination of their functions, and any other changes affecting their status that may occur in the course of their service at the consular post;
- (b) The arrival and final departure of a person belonging to the family of a member of the consular post and forming part of his household and, where appropriate, the fact that a person becomes or ceases to be a member of the family;
- (c) The engagement and discharge of persons resident in the receiving State as consular employees.

Article 9. IDENTITY DOCUMENT

1. The competent authorities of the receiving State shall issue to each consular officer, free of charge, a document attesting to his identity and duties.
2. The provisions of paragraph 1 shall also apply to consular employees provided that they are not nationals or permanent residents of the receiving State.

3. The provisions of this article shall apply, *mutatis mutandis*, to persons belonging to the families of members of a consular post and forming part of their households, provided that they are not nationals or permanent residents of the receiving State.

CHAPTER III. FACILITIES, PRIVILEGES AND IMMUNITIES

Article 10. MEASURES TO BE TAKEN BY THE RECEIVING STATE

1. The receiving State shall accord all necessary facilities for the performance of the functions of the consular post and take appropriate measures to that end and shall also facilitate for the members of the consular post the performance of their official activities and the enjoyment of the facilities, privileges and immunities provided for in this Convention.

2. The receiving State shall treat consular officers with due respect and shall take appropriate measures to prevent any offence against their person, freedom or dignity.

Article 11. COAT OF ARMS AND FLAG OF THE CONSULAR POST

1. The coat of arms of the sending State and an appropriate inscription indicating the consular post may be displayed on the building occupied by the consular post or the residence of the head of the consular post.

2. The flag of the sending State may be flown on the building occupied by the consular post, on the residence of the head of the consular post and on his means of transport when used on official business.

Article 12. ACCOMMODATION

The receiving State shall facilitate the acquisition in its territory, in accordance with its laws and regulations, by the sending State of premises necessary for its consular post and also, where necessary, of suitable accommodation for the members of the consular post.

Article 13. INVIOIABILITY OF THE CONSULAR PREMISES

1. The consular premises, the residence of the head of the consular post and the living quarters of the other consular officers shall be inviolable. The authorities of the receiving State shall not enter them except with the consent of the head of the consular post or the head of the diplomatic mission of the sending State or a person designated by either of them.

2. The receiving State shall take all appropriate steps to prevent any intrusion into or damage to the consular premises and any disturbance of the peace of the consular post or impairment of its dignity.

3. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for purposes of national defence or public utility.

Article 14. FISCAL EXEMPTIONS IN RESPECT OF PREMISES AND LIVING ACCOMMODATION

1. The consular premises, the residence of the head of the consular post and the living quarters of other members of the consular post which are owned or

leased by the sending State shall be exempt from all national, regional or municipal taxes and charges whatsoever, other than such as represent payment for specific services rendered.

2. The exemption referred to in paragraph 1 shall not apply to such taxes and charges if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

3. The exemption from taxes and changes provided for in paragraph 1 shall apply also to means of transport which are the property of the sending State and are intended for official use.

Article 15. INVIOABILITY OF THE CONSULAR ARCHIVES

The consular archives and documents shall be inviolable at all times and wherever they may be.

Article 16. FREEDOM OF COMMUNICATION

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all appropriate means of communication, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consular post shall be inviolable.

3. The consular bag shall bear visible external marks of its character and may contain only official correspondence and documents or articles intended exclusively for official use.

4. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the bag contains items other than the correspondence, documents or articles referred to in paragraph 3, they may require the bag to be returned to its place of origin.

5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. In the performance of his functions he shall be protected by the receiving State, shall enjoy personal inviolability and shall not be liable to any form of deprivation of freedom.

6. A consular bag may be entrusted to the captain of a ship or aircraft travelling to an authorized port or airport of entry. He shall be provided with an official document indicating the number of packages constituting the consular bag, but he shall not be considered to be a consular courier. A consular officer may take possession of the consular bag from the captain of the ship or aircraft or deliver such a bag to him without any difficulty.

Article 17. IMMUNITY FROM JURISDICTION

1. Consular officers and members of their families forming part of their households shall enjoy immunity from the criminal, civil or administrative jurisdiction of the receiving State.

2. Consular employees shall enjoy immunity from the criminal, civil and administrative jurisdiction of the receiving State in respect of acts performed in the exercise of their official functions for the purposes of the consular post.

3. The provisions of paragraphs 1 and 2 shall not apply in respect of a civil proceeding arising out of:

- (a) A real action relating to private immovable property situated in the territory of the receiving State, unless the member of the consular post holds the property on behalf of the sending State for the purposes of the consular post;
- (b) An action relating to succession in which the member of the consular post is involved as executor, administrator, heir or legatee in a private capacity and not on behalf of the sending State;
- (c) A contract which was concluded by a member of the consular post not acting expressly or implicitly as an agent of the sending State;
- (d) An action instituted by a third party as a result of an accident in the receiving State caused by a vehicle, vessel or aircraft.

Article 18. THE GIVING OF EVIDENCE AS A WITNESS

1. Members of a consular post may be called upon to give evidence as witnesses before the courts or other competent authorities of the receiving State. Consular employees shall not, except in the cases mentioned in paragraph 3 below, decline to give evidence. If a consular officer declines to give evidence, no coercive measure or penalty may be applied against him.

2. The authority of the receiving State requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It shall, where possible, take such evidence at his residence or at the consular post or accept a statement in writing from him.

3. Members of a consular post shall be under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence and documents relating thereto. They shall also be entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

4. The provisions of this article shall apply *mutatis mutandis* to persons who belong to the families of members of a consular post and form part of their households.

Article 19. WAIVER OF PRIVILEGES AND IMMUNITIES

1. The sending State may waive the privileges and immunities referred to in articles 17 and 18. The waiver shall in all cases be express and communicated to the receiving State in writing.

2. The initiation of proceedings by any member of the consular post in a matter in which he might enjoy immunity from jurisdiction shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

3. The waiver of immunity from jurisdiction in civil proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such matters, a separate waiver shall be necessary.

Article 20. EXEMPTION FROM PERSONAL SERVICES AND CONTRIBUTIONS

The receiving State shall exempt members of the consular post and members of their families forming part of their households from all personal services and from all public or military obligations such as those connected with requisitioning, military contributions and billeting.

Article 21. EXEMPTION FROM REGISTRATION OF ALIENS
AND RESIDENCE PERMITS

Members of the consular post and members of their families forming part of their households shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens, residence permits and other formalities having generally to do with aliens.

Article 22. EXEMPTION FROM TAXATION

1. Members of the consular post and members of their families forming part of their households shall be exempt from all taxes and charges, personal or real, national, regional or municipal, except:

- (a) Indirect taxes which are normally included in the price of goods or services;
- (b) Taxes or charges on private immovable property situated in the territory of the receiving State, subject to the provisions of article 14;
- (c) Taxes levied by the receiving State on the acquisition of property rights or rights of succession, subject to the provisions of article 24;
- (d) Taxes and charges on private income of any kind having its source in the receiving State;
- (e) Charges levied for specific services rendered;
- (f) Registration fees, court fees, mortgage dues and stamp duties, subject to the provisions of article 14.

2. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall comply with the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

Article 23. EXEMPTION FROM CUSTOMS DUTIES AND INSPECTION

1. The receiving State shall permit the entry and re-export of and shall grant exemption from all customs duties, taxes and related charges, other than charges to cover the cost of storage, transport and similar services, on:

- (a) Articles, including motor vehicles, intended for the official use of the consular post;
- (b) Articles, including motor vehicles, intended for the personal use of members of the consular post and members of their families forming part of their households and articles intended for their installation. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.

2. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from customs

inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in paragraph 1 (b) or articles whose import or export is prohibited by the laws and regulations of the receiving State. Such inspection shall be carried out in the presence of the consular officer or family member concerned.

Article 24. ESTATE OF A MEMBER OF THE CONSULAR POST OR OF A MEMBER OF HIS FAMILY

In the event of the death of a member of the consular post or of a member of his family forming part of his household, the receiving State:

- (a) Shall permit the export of the movable property of the deceased, with the exception of any such property which was acquired in the receiving State and whose export was prohibited at the time of his death;
- (b) Shall not levy estate duties or duties on transfers on movable property whose presence in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a person belonging to the family of a member of the consular post.

Article 25. INSURANCE AGAINST THIRD-PARTY RISKS

Members of the consular post and members of their families shall comply with all requirements imposed by the laws and regulations of the receiving State in respect of insurance against third-party risks arising from the use of any vehicle, vessel or aircraft.

Article 26. NATIONALS OR PERMANENT RESIDENTS OF THE RECEIVING STATE

Consular employees and persons belonging to the families of members of the consular post and forming part of their households who are nationals or permanent residents of the receiving State shall not enjoy the privileges and immunities established in chapter III of this Convention, except in the cases provided for in article 18, paragraph 3.

CHAPTER IV. CONSULAR FUNCTIONS

Article 27. SCOPE OF CONSULAR FUNCTIONS

The mission of a consular officer shall be to promote friendly relations between the two States and to further the development of economic, commercial, cultural and scientific relations between them; to defend the rights and interests of the sending State and its nationals, including bodies corporate, and to facilitate tourist travel for nationals of the two States.

Article 28. COMMUNICATION WITH THE AUTHORITIES OF THE RECEIVING STATE

1. In the exercise of his functions, a consular officer may address:

- (a) The competent local authorities of his consular district;
- (b) The competent central authorities of the receiving State, if the laws, regulations and customs of the receiving State so permit.

2. A consular officer may, with the consent of the receiving State, exercise his consular functions outside his consular district as well.

Article 29. CONSULAR ASSISTANCE

1. Subject to the laws and regulations of the receiving State, a consular officer shall be entitled to represent nationals of the sending State, including bodies corporate, or to take appropriate steps to ensure legal representation for them, before the courts or other authorities of the receiving State in cases in which, because of absence or for any other reason, such nationals are unable to defend their rights and interests at the proper time.

2. The representation referred to in paragraph 1 shall cease when the person represented appoints his own agent or himself assumes responsibility for the defence of his rights and interests.

Article 30. REGISTRATION, PASSPORTS AND VISAS

A consular officer shall be entitled:

- (a) To keep a register of nationals of the sending State;
- (b) To issue passports or other travel documents to nationals of the sending State and to renew them;
- (c) To issue visas.

Article 31. FUNCTIONS IN RESPECT OF CIVIL STATUS

1. A consular officer shall be entitled to register births, marriages and deaths of nationals of the sending State on the basis of documents issued by the civil registry offices of the receiving State, and also to issue the corresponding certificates. However, these provisions shall not exempt nationals of the sending State from the obligation to comply with the laws and regulations of the receiving State in respect of the registration of births, marriages and deaths.

2. For official purposes, the competent authorities of the receiving State shall provide to the consular post free of charge and without delay copies of the birth, marriage and death certificates of nationals of the sending State and copies of judicial and administrative decisions relating to the civil status of such nationals.

Article 32. NOTARIAL AND ADMINISTRATIVE FUNCTIONS

1. A consular officer shall be entitled to:

- (a) Receive and authenticate declarations by nationals of the sending State and issue appropriate documents to them;
- (b) Draw up, authenticate and accept for safe keeping wills and other documents attesting to unilateral legal acts of nationals of the sending State;
- (c) Certify signatures of nationals of the sending State;
- (d) Authenticate all documents issued by the authorities of the sending State or the receiving State and copies of and extracts from such documents;
- (e) Translate documents and certify the accuracy of the translations;
- (f) Draw up and authenticate instruments and contracts concluded by nationals of the sending State, provided that such instruments and contracts are not contrary to the laws and regulations of the receiving State and do not concern

the establishment or transfer of rights relating to immovable property situated in that State;

(g) Draw up and authenticate instruments and contracts, regardless of the nationality of the persons who are party to them, if the instruments and contracts relate exclusively to property or rights existing in the sending State or else concern matters which are to be executed in that State, provided that they are not contrary to the laws and regulations of the receiving State.

2. The instruments and documents referred to in paragraph 1, authenticated or certified by a consular officer of the sending State, shall have the same validity and evidential value in the receiving State as if they had been authenticated or certified by the courts or other competent authorities of the receiving State. The authorities of the receiving State shall, however, be required to recognize the validity of the said documents only to the extent that they are not contrary to the laws and regulations of that State.

Article 33. DEPOSIT

A consular official shall be empowered to accept for safe keeping directly from nationals of the sending State documents, money and valuables belonging to them, if such acceptance does not violate the laws and regulations of the receiving State.

Article 34. FUNCTIONS RELATING TO THE TRANSMITTAL OF DOCUMENTS AND THE TAKING OF EVIDENCE

A consular official shall be entitled to transmit judicial and extrajudicial documents to nationals of the sending State and to take evidence from such nationals on a voluntary basis at the request of the judicial bodies of the sending State.

Article 35. TRUSTEESHIP AND GUARDIANSHIP

1. Where a guardian or trustee must be appointed for a national of the sending State who is a minor or lacks full capacity for legal action, the authorities of the receiving State shall so inform the consular post in writing. They shall likewise so inform the consular post in the case of property belonging to nationals of the sending State which is situated in the receiving State and is left without the supervision of such nationals because they are, for any reason, not in a position to administer it.

2. A consular official may communicate, in respect of the matters referred to in paragraph 1, with the competent authorities of the receiving State and may, in particular, propose a suitable person as guardian or trustee.

Article 36. CONSULAR ASSISTANCE

A consular official shall be entitled to communicate with any national of the sending State, to assist or advise him and, where necessary, to provide him with legal protection. The national of the sending State may visit the consular official or communicate with him in some other manner.

Article 37. NOTIFICATION IN CASE OF ARREST AND VISITS TO PERSONS ARRESTED

1. In any case in which a national of the sending State has been arrested, detained or otherwise deprived of personal freedom, the competent authorities of

the receiving State shall notify the consular post of the sending State without delay. The said authorities shall immediately forward any information addressed to the consular post by such a national.

2. A consular officer shall be entitled to visit immediately any national of the sending State who has been arrested, detained or otherwise deprived of personal freedom, to communicate and converse with him and to arrange for his legal defence. He shall also be entitled to visit any national of the sending State who is serving a prison sentence.

3. The competent authorities of the receiving State shall be required to inform the persons mentioned in the provisions of this article of all the rights to which they are entitled under the said provisions.

4. The rights referred to in this article must be exercised in conformity with the laws and regulations of the receiving State, subject to the condition that such laws and regulations must allow the full realization of the purposes for which the rights in question are accorded.

Article 38. FUNCTIONS IN MATTERS OF SUCCESSION

1. Where a competent authority of the receiving State learns of the opening of a succession to an estate due to the death in that State of a national of the sending State, it shall, without delay, inform a consular officer of the sending State accordingly.

2. Where a competent authority of the receiving State learns that a deceased person of any nationality has left in that State an estate in which a national of the sending State may have an interest, the said authority shall, without delay, inform a consular officer of the sending State accordingly.

3. The competent authority of the receiving State in whose territory an estate as referred to in paragraphs 1 and 2 has been left shall take appropriate steps in accordance with the laws and regulations of that State for the protection of the estate, shall transmit a copy of the will, if one was drawn up, to a consular officer, together with all available information concerning heirs and the nature and value of the estate, and shall provide him with information concerning the date of the commencement of succession proceedings or the status of such proceedings.

4. In matters relating to the protection of an estate, referred to in paragraphs 1 and 2, a consular officer may co-operate with the competent authorities of the receiving State, particularly with regard to:

- (a) All measures necessary for preventing damage to the estate including the sale of movable property;
- (b) The appointment of an administrator or trustee for the estate and the settlement of other matters relating to the administration of the estate.

5. Where a national of the sending State who is neither permanently resident nor otherwise represented in the receiving State has a claim against an estate left in that State, a consular officer shall be entitled to represent him either direct or through a representative before the courts or other authorities of the receiving State.

6. A consular officer of the sending State shall have the right, on behalf of nationals of his State not permanently resident in the receiving State, to receive

any shares in an estate or any legacies to which nationals of the sending State are entitled, as well as all payments made in respect of compensation, pensions or social security benefits or the proceeds of insurance policies, in order to transmit them to the said nationals.

7. The movable property and the proceeds from the sale of an estate to which nationals of the sending State are entitled may be delivered to a consular officer, provided that the claims of creditors against the deceased and all taxes and charges attaching to the estate have been paid or secured.

Article 39. PERSONAL EFFECTS OF A PERSON WHO DIES WHILE TRAVELLING IN THE RECEIVING STATE

1. If a national of the sending State not permanently resident in the receiving State dies while travelling in the latter State, his personal effects shall be delivered to a consular officer of the sending State without any formal proceedings. The consular officer to whom such effects are delivered shall, within the limits of their value, settle any debts contracted by the deceased during his stay in the receiving State.

2. The consular officer shall be entitled, subject to the laws and regulations of the receiving State, to transfer abroad the items of an estate referred to in paragraph 1 of this article and in article 38, paragraphs 6 and 7.

Article 40. FUNCTIONS RELATING TO SHIPPING

1. A consular officer shall be entitled to render every assistance to sea-going vessels of the sending State and the members of their crews while they are in the territorial sea or the internal waters of the receiving State, including its ports. He may exercise rights of supervision and inspection in respect of the sea-going vessels of that State and their crews and take any measures intended to ensure compliance with the rules and regulations of the sending State in relation to shipping. For that purpose, he may also visit sea-going vessels of the sending State and receive visits from their masters and crews.

2. The authorities of the receiving State shall respect all measures taken by a consular officer in accordance with the laws and regulations of the sending State in relation to sea-going vessels of the sending State and their crews. In carrying out such measures, the consular officer may request assistance from the competent authorities of the receiving State.

3. In particular, a consular officer shall be entitled to:

- (a) Question the master or any member of the crew of a sea-going vessel of the sending State, examine, accept and authenticate the vessel's papers and take statements regarding its voyage and in general regarding activities intended to facilitate the arrival and stay of a vessel in port and its departure therefrom;
- (b) Settle disputes of any kind between the master and other members of the crew, including disputes relating to contracts of service and conditions of work;
- (c) Make arrangements for the engagement and discharge of the master or any member of the crew;
- (d) Make all arrangements for the hospitalization and repatriation of the master or any member of the crew;

- (e) Receive, draw up or sign any declarations or other documents relating to shipping which are prescribed by the laws and regulations of the sending State.

Article 41. POSSIBILITY OF INTERVENTION BY THE AUTHORITIES OF THE RECEIVING STATE

The courts and other competent authorities of the receiving State shall not exercise their jurisdiction in respect of offences committed on board a sea-going vessel of the sending State except in the case of the following:

- (a) Offences committed by or against a national of the receiving State or by or against any person other than the master of the vessel or a member of its crew;
- (b) Offences jeopardizing the tranquillity or safety of a port or the territorial sea and internal waters of the receiving State;
- (c) Offences against the laws and regulations of the receiving State concerning passport or customs matters, public health, the safety of life at sea or marine pollution;
- (d) Offences classified as serious crimes under the laws of the receiving State.

In other cases, the aforementioned authorities shall act only at the request or with the consent of a consular officer.

Article 42. PROTECTION OF SEA-GOING VESSELS AND THEIR CREWS

1. Where a court or other authority of the receiving State intends to arrest or detain on board a sea-going vessel of the sending State the master or a member of the crew or any other person who is not a national of the receiving State, or to seize any property or institute an official investigation on board the vessel, the competent authorities of the receiving State shall notify a consular officer in time to enable him to be present on board the vessel before such action is taken. If it is not possible to notify a consular officer in advance, the competent authorities of the receiving State shall notify him as soon as possible but in any event not later than the time when the action is begun. The said authorities shall enable the consular officer to visit and communicate with the arrested or detained person and to take such measures as are appropriate for protecting the interests of the person concerned or the vessel.

2. The provisions of paragraph 1 shall not apply to any routine examination of a sea-going vessel carried out by the authorities of the receiving State with regard to passport or customs matters, public health or the safety of life at sea or any other action taken at the request or with the consent of the master of the vessel.

Article 43. ACCIDENTS AND DAMAGE TO VESSELS

1. If a sea-going vessel of the sending State is wrecked or sunk, runs aground, or otherwise sustains damage in the territorial sea or internal waters of the receiving State, including its ports, or if any article belonging to that vessel or forming part of its cargo, or any article forming part of a wrecked sea-going vessel's cargo and being the property of the sending State or of a national of that State, is found in the receiving State, the competent authorities of the receiving State shall inform a consular officer of the sending State accordingly without

delay and shall take all necessary measures to save the vessel of the sending State and its crew, passengers and cargo. The consular officer of the sending State shall be informed of the measures taken. The measures in question shall, where practicable, be taken in co-operation with the consular officer and the master of the vessel.

2. In the absence of any other person authorized so to act, the consular officer shall be deemed to be authorized to make the same arrangements as the owner himself, if he had been present, could have made in relation to:

- (a) A sea-going vessel of the sending State, its cargo or any article belonging to the vessel or forming part of its cargo, which has become separated from the vessel; or
- (b) The cargo or any article forming part of the cargo of a wrecked sea-going vessel, being the property of the sending State or of a national of that State, which has been found in the territorial sea or internal waters of the receiving State, including its ports, or is brought into a port of the receiving State.

3. The competent authorities of the receiving State shall extend the necessary assistance to the consular officer, at his request, in his action in connection with the damage to a sea-going vessel of the sending State.

4. The damaged sea-going vessel of the sending State and its cargo and equipment shall not be liable in the territory of the receiving State to customs duties or other similar charges, provided that they are not made available for use or consumption in the receiving State.

Article 44. FUNCTIONS RELATING TO AIR TRANSPORT

The provisions of articles 40, 41, 42 and 43 shall also apply *mutatis mutandis* to aircraft.

Article 45. CONSULAR FEES

1. A consular post may levy in the territory of the receiving State the fees and other consular charges for consular services fixed by the laws and regulations of the sending State.

2. The sums collected in the form of the consular fees and charges referred to in paragraph 1 shall be exempt from all dues and taxes in the receiving State.

CHAPTER V. GENERAL AND FINAL PROVISIONS

Article 46. RESPECT FOR THE LAWS AND REGULATIONS OF THE RECEIVING STATE

1. All persons enjoying privileges and immunities under this Convention shall be required, without prejudice to those privileges and immunities, to respect the laws and regulations of the receiving State.

2. The consular premises shall not be used in any manner incompatible with the exercise of consular functions.

Article 47. OTHER CONSULAR FUNCTIONS

In addition to the powers specified in this Convention, a consular officer may exercise other consular functions assigned to him by the sending State, provided that they are not contrary to the laws and regulations of the receiving State.

Article 48. PROVISIONS APPLICABLE TO BODIES CORPORATE

The provisions of this Convention relating to nationals of the sending State shall, where appropriate, apply *mutatis mutandis* to bodies corporate of the sending State.

Article 49. EXERCISE OF CONSULAR FUNCTIONS
BY DIPLOMATIC MISSIONS

1. The provisions of this Convention shall apply, *mutatis mutandis*, in cases in which consular functions are exercised by a diplomatic mission.

2. The names of members of a diplomatic mission assigned to the consular section shall be notified to the Ministry of Foreign Affairs of the receiving State.

3. The members of a diplomatic mission referred to in paragraph 2 shall continue to enjoy the privileges and immunities due them by reason of their diplomatic status.

Article 50. RATIFICATION, ENTRY INTO FORCE AND DENUNCIATION
OF THE CONVENTION

1. This Convention is subject to ratification and shall enter into force thirty days after the date of the exchange of the instruments of ratification, which shall take place at Warsaw.

2. This Convention is concluded for an indefinite period. It may be denounced by means of a notification by either of the High Contracting Parties. In such case, it shall cease to have effect six months after the date of the denunciation.

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

DONE at Havana on 12 May 1972, in duplicate in the Polish and Spanish languages, both texts being equally authentic.

For the Polish People's Republic:
[MARIAN RENKE]

For the Republic of Cuba:
[RAÚL ROA GARCÍA]