

No. 20990

**UNITED STATES OF AMERICA
and
GERMAN DEMOCRATIC REPUBLIC**

**Consular Convention (with exchange of letters). Signed at
Berlin on 4 September 1979**

Authentic texts: English and German.

Registered by the United States of America on 15 April 1982.

**ÉTATS-UNIS D'AMÉRIQUE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE**

**Convention consulaire (avec échange de lettres). Signée à
Berlin le 4 septembre 1979**

Textes authentiques : anglais et allemand.

Enregistrée par les États-Unis d'Amérique le 15 avril 1982.

CONSULAR CONVENTION¹ BETWEEN THE UNITED STATES OF AMERICA AND THE GERMAN DEMOCRATIC REPUBLIC

The United States of America and the German Democratic Republic,

Desiring to develop and regulate consular relations, and, thus, to contribute towards further developing the friendly relations between the two countries, and to facilitate the protection of their national interests and the protection of the rights and interests of their nationals,

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

For the United States of America: David B. Bolen, Ambassador of the United States of America,

For the German Democratic Republic: Kurt Nier, Deputy Minister of Foreign Affairs,

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

PART I. DEFINITIONS

Article 1

For the purpose of the present Convention, the terms listed below shall have the following meanings:

(a) "Consulate" means a consulate-general, consulate, vice-consulate, or consular agency, which is separate from the diplomatic mission;

(b) "Consular district" means the area in which a consular officer is entitled to perform consular functions;

(c) "Head of a consulate" means the consul-general, consul, vice-consul or consular officer who is charged by the sending State to head a consulate;

(d) "Consular officer" means any person, including the head of a consulate, who is charged by the sending State with the performance of consular functions;

(e) "Consular employee" means any person who performs administrative, technical, or service duties at a consulate;

(f) "Member of a consulate" means any consular officer or consular employee;

(g) "Members of the family" means the spouse and minor children of a member of a consulate who are part of his or her household. Upon the request of the sending State, and with the consent of the receiving State, the parents and other persons who are related to a member of a consulate and who are a part of his or her household may also be regarded as family members;

(h) "Consular premises" means buildings or parts of buildings, as well as the grounds ancillary thereto, used exclusively for the purposes of a consulate, regardless of ownership;

¹ Came into force on 19 February 1981, i.e., 30 days after the date of the exchange of the instruments of ratification, which took place at Washington on 19 January 1981, in accordance with article 47 (1).

(i) "Consular archives" means all official correspondence, codes and ciphers, documents, records, files and books and technical office equipment of the consulate; as well as office furniture intended for their storage and safe-keeping;

(j) "Vessel of the sending State" means any vessel sailing under the flag of the sending State, in accordance with the law of the sending State, excluding warships;

(k) "Aircraft of the sending State" means any aircraft flying under the nationality and registration marks of the sending State, in accordance with the law of the sending State, excluding military aircraft;

(l) "Law" means with regard to the United States of America, all federal, state and local laws, ordinances, decisions and other provisions, including court rulings, which have legal force; and with regard to the German Democratic Republic, all laws and other legal provisions.

PART II. ESTABLISHMENT OF CONSULATES, APPOINTMENT AND TERMINATION OF FUNCTIONS OF MEMBERS OF A CONSULATE

Article 2. ESTABLISHMENT OF CONSULATES

1. The sending State may establish a consulate in the receiving State only with the consent of the receiving State.

2. The seat of the consulate, its status, its consular district, and the number of members of a consulate, as well as any changes pertaining thereto, shall be determined by agreement between the sending and receiving States.

Article 3. APPOINTMENT OF THE HEAD OF A CONSULATE

1. Prior to the assignment of the head of a consulate by the sending State, the consent of the receiving State concerning the proposed person shall be obtained through diplomatic channels.

2. The sending State shall forward to the receiving State through diplomatic channels the consular commission or other corresponding document for the appointment of the head of the consulate. This document shall designate the name of the head of the consulate, his or her rank, as well as the seat of the consulate and the consular district.

3. The head of the consulate may enter upon the performance of his or her functions only after the receiving State has issued to him or her an exequatur or other authorization. Upon the presentation of the consular commission or other corresponding document for the appointment of the head of the consulate, the receiving State shall as soon as possible issue to him or her an exequatur or other authorization.

4. The receiving State may permit the head of a consulate to exercise his or her functions on a provisional basis until such time as an exequatur or other authorization has been issued.

5. The competent authorities of the receiving State shall, as soon as permission, including provisional permission, for the exercise of his or her functions has been granted, take all measures necessary to enable the head of the consulate to exercise his or her functions and to enjoy the rights, facilities, privileges and

immunities granted him or her under this Convention and under the law of the receiving State.

*Article 4. TEMPORARY EXERCISE OF THE FUNCTIONS
OF THE HEAD OF A CONSULATE*

1. If for any reason the head of a consulate is unable to exercise his or her functions, or if the position of the head of consulate is vacant, the sending State may place its consulate under the temporary charge of a consular officer of the same or of another consulate in the receiving State or of a member of the diplomatic staff of the diplomatic mission of the sending State. The sending State shall notify the receiving State in advance through diplomatic channels of the name of the person appointed as acting head of a consulate.

2. A person appointed as temporary head of a consulate shall enjoy the same rights, facilities, privileges and immunities enjoyed by a head of a consulate under this Convention.

3. If a member of the diplomatic staff of the diplomatic mission of the sending State is charged temporarily with the functions of a head of a consulate, the diplomatic privileges and immunities to which he or she is entitled by virtue of his or her diplomatic status are not affected.

*Article 5. NOTIFICATION OF THE DESIGNATION OF CONSULAR
OFFICERS AND THE EMPLOYMENT OF CONSULAR EMPLOYEES*

1. The sending State shall communicate through diplomatic channels, in advance, in writing, to the receiving State the full name, functions and class of each consular officer, his or her arrival, final departure or termination of functions, as well as all other changes affecting the person's status which occur while he or she is working in the consulate.

2. The sending State shall also notify the receiving State in writing of:

- (a) The designation of all consular employees, their full name, nationality and functions, their arrival, their final departure or termination of their functions, as well as other changes affecting their status in the consulate;
- (b) The arrival and final departure of members of the family of a member of a consulate and when such an individual becomes or ceases to be a member of the family;
- (c) The employment or dismissal of a consular employee who is a national or permanent resident of the receiving State.

Article 6. NATIONALITY OF CONSULAR OFFICERS

Consular officers shall be nationals of the sending State and may not be nationals nor permanent residents of the receiving State.

*Article 7. PROCEDURES FOR TERMINATING ACTIVITIES
OF MEMBERS OF A CONSULATE*

1. The receiving State may at any time, and without having to explain its decision, notify the sending State through diplomatic channels that a consular officer is *persona non grata* or that a consular employee is unacceptable. In such a case, the sending State shall recall such person or terminate his functions in the consulate.

2. If the sending State fails within a reasonable time to carry out the obligations contained in paragraph 1 of this article, the receiving State may refuse to continue recognition of the person concerned as a member of the consulate.

3. The functions of a member of a consulate shall come to an end, upon the:

- (a) Notification by the sending State to the receiving State that his or her functions have ended;
- (b) Withdrawal by the receiving State of the exequatur or other authorization; or
- (c) Notification by the receiving State to the sending State that the receiving State has ceased to consider the person as a member of the consulate.

PART III. RIGHTS, FACILITIES, PRIVILEGES, AND IMMUNITIES

Article 8. PROTECTION OF AND FACILITIES FOR CONSULATES AND MEMBERS OF A CONSULATE

1. The receiving State shall provide the consulate full facilities so that the consulate can operate and perform its consular functions.

2. The receiving State shall take all appropriate measures to insure that all members of the consulate are able effectively to perform their functions and that they as well as the members of their families enjoy the rights, facilities, privileges and immunities provided them under this Convention.

3. The receiving State shall take all appropriate measures to prevent any attack upon the person, freedom or dignity of a member of a consulate and members of the family of members of a consulate who are neither nationals nor permanent residents of the receiving State.

Article 9. ACQUISITION OF CONSULAR PREMISES AND RESIDENCES

1. The sending State shall be entitled, on its own, or through any natural or juridical person authorized by it, in accordance with the law of the receiving State, to acquire by ownership, lease, rent or any other form of tenure, consular premises, a residence for the head of the consulate, and a residence for each consular officer and each consular employee who is not a national of or a permanent resident of the receiving State.

2. Under the conditions referred to in paragraph 1, the sending State may, likewise, construct or improve such buildings and appurtenances.

3. The receiving State shall render all appropriate assistance and support to the sending State in carrying out the rights specified in paragraph 1 of this article.

4. Nothing in this article shall be construed to exempt the sending State from compliance with the law of the receiving State relating to buildings, including the construction and alterations thereof and the law relating to town planning and zoning.

Article 10. THE NATIONAL FLAG AND COAT OF ARMS

1. The sending State shall be entitled to display the national coat of arms and the designation of the consulate on the consular premises in the languages of the sending and of the receiving States.

2. The sending State shall be entitled to fly the flag of the sending State on consular premises, on the residence of the head of the consulate, as well as on the means of transport of the head of the consulate used in the performance of his or her official duties.

3. In exercising the rights provided by this article, the sending State shall observe the law and customs of the receiving State.

*Article 11. INVIOABILITY OF CONSULAR PREMISES
AND RESIDENCES OF CONSULAR OFFICERS*

1. The consular premises shall be inviolable. The authorities of the receiving State may not enter the consular premises without the consent of the head of the consulate, the chief of the diplomatic mission of the sending State, or a person designated by one of those persons. The receiving State shall take all appropriate measures to assure the protection of the consular premises.

2. The provisions of paragraph 1 shall apply likewise to the residences of consular officers.

Article 12. INVIOABILITY OF CONSULAR ARCHIVES

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

Article 13. FREEDOM OF COMMUNICATIONS

1. A consulate shall be entitled to exchange communications with its government, with diplomatic missions of the sending State and with other consulates of the sending State wherever they may be. For this purpose, the consulate may employ all ordinary means of communications, including diplomatic and consular couriers, diplomatic and consular bags and codes and ciphers. The consulate may install and operate a radio transmitter only with the consent of the receiving State.

2. With respect to use of public means of communication, the same conditions shall be applied in the case of a consulate as are applied in the case of the diplomatic mission of the sending State.

3. The official correspondence of a consulate and the consular bag shall be inviolable. The packages constituting the consular bag must bear visible external marks of its character and must be sealed. The consular bag may contain nothing other than official correspondence and articles intended for official use. The official correspondence of a consulate and the packages constituting the consular bag shall neither be opened nor detained.

4. A consular courier who possesses an official document indicating his status and the number of packages constituting the consular bag shall be granted by the receiving State the same rights, facilities, privileges and immunities as are enjoyed by a diplomatic courier of the sending State. The provisions of this paragraph shall likewise apply to *ad hoc* couriers, except that their immunities shall cease when the consular bag has been handed over to the consignee.

5. The consular bag may be entrusted to the captain of an aircraft or to master of a vessel. These persons shall be provided with an official document which indicates the number of packages constituting the consular bag. They shall not, however, be considered consular couriers. By arrangements with the appro-

appropriate authorities of the receiving State, and in compliance with the safety regulations of the receiving State the consulate may charge a member of the consulate to take possession of the consular bag directly and freely from the master of the vessel or captain of the aircraft or to deliver such bag to him or her.

*Article 14. IMMUNITY OF MEMBERS OF A CONSULATE
FROM THE JURISDICTION OF THE RECEIVING STATE*

1. Consular officers and members of their families shall be immune from the criminal, civil and administrative jurisdiction of the receiving State, and are not subject to coercive measures of the receiving State under its law.

2. Consular employees and members of their families shall be immune from the criminal jurisdiction of the receiving State. They also shall be immune from the civil and administrative jurisdiction of the receiving State and are not subject to coercive measures of the receiving State under its law respecting any act performed by them in the exercise of their official functions.

3. The provisions of paragraphs 1 and 2 shall not, however, apply to civil actions:

- (a) Concerning private immovable property in the receiving State, unless it is held on behalf of the sending State for the purposes of a consulate;
- (b) Relating to succession in which these persons are involved as executor, administrator, heir or legatee in a private capacity and not on behalf of the sending State;
- (c) Relating to any professional or commercial activities engaged in by these persons in the receiving State outside of their official functions;
- (d) Resulting from contracts that were concluded by such persons unless they were acting expressly or impliedly on behalf of the sending State;
- (e) Brought by a third party for damage arising from an accident in the receiving State caused by means of transport.

4. No measures of execution shall be taken against persons mentioned in paragraphs 1 or 2, except in the cases under paragraph 3 and then only under the conditions that they may be taken so as not to infringe upon the inviolability of their person or residence.

Article 15. EXEMPTION FROM OBLIGATION TO GIVE EVIDENCE

1. A member of a consulate and members of his or her family may be called upon to attend as witnesses in the course of judicial or administrative proceedings.

2. A member of a consulate and members of his or her family are not required to give evidence concerning matters relating to the exercise of the official functions of a member of a consulate or to produce official correspondence or documents. Such persons are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

3. No coercive measure or penalty may be applied to a member of a consulate or a member of his or her family if the person declines to appear or give evidence concerning the matters referred to in paragraphs 1 or 2.

4. The courts or other competent authorities of the receiving State which in accordance with the provisions of paragraphs 1 and 2 take testimony shall take all

appropriate measures to avoid hindering the performance of consular functions. Upon the request of the head of a consulate, such testimony may, when possible, be given orally or in writing at the consulate or at the residence of the person concerned.

5. A member of a consulate and members of his or her family shall not be required to take an oath or vow or give an assurance in connection with the giving of testimony.

Article 16. WAIVER OF IMMUNITY

1. The sending State may waive the immunity from jurisdiction of a member of a consulate and of members of his or her family provided in articles 14 and 15. Except as provided under the provisions of paragraph 2 of this article, such waiver shall always be express and in writing.

2. In the event a member of a consulate or a member of his or her family initiates legal proceedings, with respect to which he or she would enjoy immunity under article 14, he or she may not invoke immunity with regard to any counter-claim directly related to the principal claim.

3. Waiver of immunity from jurisdiction with respect to legal proceedings shall not be held to imply waiver of immunity with respect to the execution of judgment, for which a separate waiver shall be necessary.

Article 17. EXEMPTION FROM COMPULSORY SERVICES

Members of a consulate and members of their families shall be exempt from compulsory public or personal services of any kind in the receiving State.

Article 18. EXEMPTION FROM REGISTRATION

Members of a consulate and members of their families shall be exempt from all obligations under the law of the receiving State regarding registration and residence permits and other related regulations normally applicable to persons who are not nationals of the receiving State.

Article 19. EXEMPTION OF THE SENDING STATE FROM TAXATION ON IMMOVABLE AND MOVABLE PROPERTY

1. The receiving State shall neither impose on nor collect from the sending State any national, regional or local dues or taxes of any kind with respect to:

- (a) Consular premises, the residence of the head of a consulate and the residences of members of a consulate used in accordance with article 9;
- (b) Transactions or documents relating to the immovable property referred to in subparagraph (a) of this paragraph.

2. The receiving State shall neither impose on nor collect from the sending State any national, regional or local dues or taxes with respect to movable property which is owned, leased or otherwise possessed by the sending State and which is used exclusively for consular purposes, as well as dues and taxes in connection with the acquisition, possession or maintenance of such property.

3. The provisions of subparagraph 1 (a) of this article shall not apply to payment for services rendered.

4. The exemptions accorded by paragraph 1 of this article shall not apply to such dues and taxes if under the law of the receiving State they are payable by a person contracting with the sending State or with a person acting on behalf of the sending State.

Article 20. EXEMPTION OF MEMBERS OF A CONSULATE FROM TAXATION

1. A member of a consulate and members of his or her family shall be exempt from payment of all dues and taxes and similar charges of any kind, whether national, regional or municipal, except:

- (a) Indirect dues and taxes of a kind normally included in the price of goods and services;
- (b) Dues and other taxes imposed with respect to private immovable property located in the receiving State, unless an exemption is provided by article 19 of this Convention;
- (c) Estate and inheritance taxes and taxes on the transfer of property rights in the receiving State, except if exemption is provided under paragraph 2 of this article;
- (d) Dues and other taxes on private income derived from sources in the receiving State;
- (e) Dues and other charges for specific services rendered;
- (f) Registration, court, record, mortgage and stamp fees, as well as dues and taxes imposed on transactions and on documents relating to transactions, except when exemption is provided under article 19.

2. No national, regional or local estate, succession, or inheritance tax or any other tax or charge with respect to the transfer of movable property at death of a member of a consulate or a member of his or her family shall be imposed by the receiving State, provided that the presence of the property in the receiving State was due solely to the presence of the deceased in the receiving State in his or her capacity as a member of a consulate or as a member of a family of a member of a consulate.

3. A member of a consulate who employs persons whose wages and salaries are not exempt from the payment of dues and taxes in the receiving State shall observe the requirements under the law of the receiving State relating to an employer's obligation respecting payment of dues and taxes.

Article 21. EXEMPTION FROM CUSTOMS DUTIES AND INSPECTION

1. All articles, including motor vehicles, imported or exported for the official use of a consulate, shall be exempt in the receiving State from customs duties and other dues and taxes of any kind to the same extent as if they were imported or exported by the diplomatic mission of the sending State for its official use.

2. A consular officer and members of his or her family shall be exempt from customs duties and other charges imposed upon or by reason of importation or exportation of all articles intended for their own personal use, including articles for the equipment of their households, to the same extent as a member of the diplomatic staff of the diplomatic mission of the sending State and members of his or her family.

3. A consular employee and members of his or her family shall be exempt from customs duties and other charges imposed upon or by reason of the importation or exportation of articles for their own personal use, including articles for the equipment of their households, to the same extent as a member of the administrative and technical staff of the diplomatic mission of the sending State and members of his or her family.

4. Personal baggage of a consular officer and members of his or her family shall be exempt from customs inspection. It may be inspected only in cases where there is serious reason to believe that they contain articles other than those mentioned in paragraph 2, or articles the importation or exportation of which is prohibited by the law of the receiving State or articles which are subject to the law of quarantine. Such inspection may be undertaken only in the presence of the consular officer concerned or members of his or her family or a person who has been designated to represent him or her.

5. The exemptions referred to in paragraphs 1 to 3 inclusive shall not apply to charges for the safekeeping, storage or cartage of imported or exported articles when such services have been initiated by a member of a consulate or a member of his or her family.

Article 22. FREEDOM OF MOVEMENT

Subject to the law of the receiving State concerning zones where entry or stay is prohibited or regulated for reasons of national security, the receiving State shall ensure for all members of a consulate and members of their families freedom of movement and travel in the receiving State.

Article 23. EXCLUSION FROM THE ENJOYMENT OF RIGHTS, FACILITIES, PRIVILEGES AND IMMUNITIES

Consular employees and members of the families of members of a consulate who are either nationals or permanent residents of the receiving State shall not enjoy the rights, facilities, privileges and immunities provided by this Convention, except respecting immunity from the obligation to give evidence in matters connected with the discharge of official duties as provided in article 15.

PART IV. CONSULAR FUNCTIONS

Article 24. FUNCTIONS OF A CONSULAR OFFICER

A consular officer shall be entitled to:

- (a) Protect the rights and interests of the sending State and of its nationals and juridical persons;
- (b) Render assistance to nationals and juridical persons of the sending State;
- (c) Contribute to the development of economic, commercial, cultural, scientific, and tourist relations between the sending and the receiving States;
- (d) Promote in other ways the development of friendly relations between the sending and receiving States;
- (e) Ascertain by all lawful means conditions and developments in the political, economic, commercial, cultural and scientific life of the receiving State, and report thereon to the government of the sending State.

Article 25. EXERCISE OF CONSULAR FUNCTIONS

1. In accordance with his authorization from the sending State, a consular officer shall be entitled to carry out the functions described in this Convention. He or she may also carry out other consular functions entrusted to him or her by the sending State which are not prohibited by the law of the receiving State or to which the receiving State does not object.

2. A consular officer shall be entitled to exercise consular functions only in the consular district to which he or she is assigned. A consular officer shall be entitled to exercise consular functions outside the limits of his or her consular district only when the advance consent of the receiving State is given separately in each instance.

3. In exercising his or her functions, a consular officer may approach orally or in writing:

- (a) The competent authorities within his or her consular district;
- (b) The competent central authorities of the receiving State to the extent allowed by the law and custom of the receiving State.

4. With the approval of the receiving State the sending State may perform consular functions in the receiving State on behalf of a third State.

5. A consulate shall be entitled to levy in the receiving State consular fees authorized under the law of the sending State. Such consular fees shall be exempt from all dues and taxes in the receiving State.

*Article 26. REPRESENTATION BEFORE THE AUTHORITIES
OF THE RECEIVING STATE*

1. A consular officer shall be entitled, in accordance with the law of the receiving State, to take appropriate measures for the protection of the rights and interests of nationals or juridical persons of the sending State, before the courts and other authorities of the receiving State, when because of absence or any other reason, these nationals are not in a position to undertake timely defense of their rights and interests.

2. The measures referred to in paragraph 1 shall cease as soon as the national or juridical person appoints a representative or personally assumes the defense of these rights and interests.

3. The provisions of this article do not, however, authorize a consular officer to act as an attorney-at-law.

Article 27. FUNCTIONS REGARDING CITIZENSHIP MATTERS

A consular officer shall be entitled:

- (a) To register nationals of the sending State;
- (b) To accept applications and issue or deliver documents on matters of citizenship, subject to the law of the sending State.

Article 28. FUNCTIONS WITH REGARD TO TRAVEL DOCUMENTS

A consular officer shall be entitled to:

- (a) Issue to nationals of the sending State passports or other travel documents, extend the validity of the same, cancel them, withdraw them, as well as make other changes in them;

- (b) Issue visas or other documentation permitting persons to travel to or through the sending State.

Article 29. FUNCTIONS REGARDING CIVIL STATUS MATTERS

1. A consular officer shall be entitled:

- (a) To maintain registers relating to births and deaths of nationals of the sending State and to receive communications and documents on the same;
- (b) To accept any application or declaration relating to civil status from nationals of the sending State.

2. The provisions of paragraph 1 do not exempt the persons concerned from the obligations under the law of the receiving State respecting these matters.

Article 30. NOTARIAL FUNCTIONS

A consular officer shall, in accordance with his or her authorization from the sending State, be entitled:

- (a) To accept, legalize or certify declarations and testamentary dispositions of nationals of the sending State and to issue appropriate documents;
- (b) To legalize or certify contracts concluded between nationals of the sending State and documents pertaining to unilateral acts of nationals of the sending State, provided these do not establish, transfer or abolish titles to premises and buildings located in the receiving State;
- (c) To acknowledge or certify signatures of nationals of the sending State on documents intended for use in the sending State and to certify copies and photocopies of papers and documents of any kind and extracts thereof;
- (d) To authenticate documents and acts drawn up or issued by the competent authorities of the receiving State and intended for use in the sending State;
- (e) To certify translations of documents issued by the authorities of the sending or receiving State;
- (f) To perform other notarial acts for which he or she has authority from the sending State, to the extent that they are not contrary to the law of the receiving State.

Article 31. LEGAL FORCE OF ACTS AND DOCUMENTS

The acts and documents specified in article 30, legalized, certified or authenticated by a consular officer of the sending State, shall have in the receiving State the same validity and effect as the acts and documents drawn up, executed, legalized or certified by the competent authorities of the receiving State, provided they are not contrary to the law of the receiving State.

Article 32. SERVING JUDICIAL AND OTHER DOCUMENTS

A consular officer shall be entitled to serve judicial and other documents on nationals of the sending State in accordance with existing international agreements which are in force between the sending and receiving States or, in the absence of such international agreements, to the extent permitted by the law of the receiving State.

Article 33. SAFEKEEPING OF ARTICLES

1. In accordance with his or her authorization from the sending State, and when not in contravention of the law of the receiving State, a consular officer shall be entitled to:

- (a) Accept for safekeeping from nationals of the sending State documents, money, valuables and other objects belonging to them;
- (b) Accept from the authorities of the receiving State papers, money, valuables and other objects which have been lost by nationals of the sending State during their stay in the receiving State in order to return them to their owners.

2. The objects accepted for safekeeping in accordance with paragraph 1(a) may be exported from the receiving State only if such exportation is not contrary to the law of that State.

Article 34. NOTIFICATION OF THE ESTABLISHMENT OF GUARDIANSHIP OR TRUSTEESHIP

1. The competent authorities of the receiving State shall notify a consular officer in writing of instances in which it is necessary to appoint a guardian or trustee for a national of the sending State who is not of age or is not in a position to perform legal acts, or to appoint a trustee for a national of the sending State for the purpose of administering the property in the receiving State of such national when for whatever reason the property cannot be administered by the national.

2. A consular officer of the sending State may, on matters mentioned in paragraph 1, approach the appropriate authorities of the receiving State, and, in particular, may propose appropriate persons to be appointed a guardian or a trustee.

Article 35. INFORMATION ON THE DEATH OF A NATIONAL OF THE SENDING STATE

When the competent authorities of the receiving State learn of the death of a national of the sending State in the receiving State, they shall immediately notify a consular officer of the sending State and, upon his or her request, send him or her a copy of the death certificate or other appropriate documentation confirming the death.

Article 36. INFORMATION ON THE ESTATE OF A DECEASED NATIONAL

Whenever the competent authorities of the receiving State learn of:

- (a) The initiation of the administration of an estate resulting from the death in the receiving State of a national of the sending State who leaves in the receiving State no person authorized to administer or to conserve the estate and who has no representative there; or
- (b) The initiation of the administration of an estate of a person, regardless of nationality, who has left in the receiving State an estate in which a national of the sending State who is not a permanent resident of the receiving State and who has no representative there may have an interest under a will or otherwise in accordance with the law of the receiving State,

they shall as promptly as possible so inform a consular officer of the sending State.

Article 37. FUNCTIONS RELATING TO ESTATES MATTERS

A consular officer shall be entitled, in relation to estate matters specified in article 36 and, to the extent permitted under the law of the receiving State:

- (a) To request the competent authorities of the receiving State to take measures for the safeguarding, preservation and administration of the estate;
- (b) To be present during, or otherwise to participate in, the taking of the measures referred to in subparagraph (a);
- (c) To arrange for the representation of a national of the sending State, having a legitimate interest in the estate, who is neither present nor represented in the receiving State.

*Article 38. TEMPORARY CUSTODY AND RETURN OF MONIES
AND PERSONAL ITEMS OF DECEASED SENDING STATE NATIONALS*

1. If a national of the sending State dies during his temporary stay in the receiving State or during transit through that State, the competent authorities of the receiving State are obliged to deliver without delay to a consular officer of the sending State money and personal effects in the possession of the national for the purpose of their temporary custody and transfer to a person who has a claim to such money or effects. This obligation exists insofar as there is no person in the receiving State who is entitled to claim such property, also insofar as the money and effects are not retained by the competent authorities of the receiving State for the purposes of a legal inquiry and provided that such provisional custody shall be relinquished in accordance with the law of the receiving State to a duly appointed administrator or other authorized person.

2. The receiving State will permit the export of the monies and personal effects mentioned in paragraph 1 with the exception of monies and personal effects obtained in the receiving State, the export of which was forbidden according to the law of the receiving State at the time of death.

Article 39. COMMUNICATION WITH NATIONALS OF THE SENDING STATE

1. A consular officer shall be entitled, in his or her consular district, to communicate and meet with any national of the sending State, to render him or her any kind of assistance, to assist him or her in dealings with authorities of the receiving State, and to arrange for the assistance of a lawyer and to arrange for an interpreter.

2. The receiving State shall in no way restrict the relations between the national of the sending State and the consular officer.

3. The authorities of the receiving State shall assist a consular officer to obtain information concerning the whereabouts of persons who possess the nationality of the sending State so that the consular officer can communicate or meet with these nationals.

4. In any case in which a national of the sending State is subject to detention, arrest or other form of limitation of his or her personal freedom, the competent authorities of the receiving State shall inform a consular officer of the sending State. This notification shall take place immediately, but, in any event, not later than after three calendar days from the date on which the national

was detained, arrested or placed under any form of limitation of his or her personal freedom. Upon his or her request, a consular officer shall be informed of the reasons for which the national has been detained, arrested or otherwise limited in his or her personal freedom.

5. A consular officer shall be entitled to visit a national of the sending State who has been detained, arrested or subjected to any other form of limitation of his or her personal freedom, including such national who is in custody pending trial or who is serving a prison sentence in the receiving State, to converse and to correspond with him or her in the language of the sending or the receiving State or to arrange for his or her legal representation. These visits shall take place as soon as possible, but, in any case, not later than after four calendar days from the date on which such national has been detained, arrested or subjected to any other form of limitation of personal freedom. The visits may be made periodically, but at intervals of not more than one month.

6. The competent authorities of the receiving State shall immediately inform the national of the sending State who is subjected to any form of limitation of personal freedom of all rights accorded to him by this article to communicate with a consular officer.

7. A consular officer shall be entitled to receive from and send to a national of the sending State who is under any form of limitation of personal freedom letters or other correspondence.

8. A consular officer is entitled to provide to a national of the sending State who is under any form of limitation of personal freedom parcels containing items for personal use such as food, clothes, and reading and writing materials, in accordance with the regulations of the detention facility concerned.

9. In the case of a trial of a national of the sending State in the receiving State, the appropriate authorities shall, at the request of a consular officer, inform such officer of the charges against such national. A consular officer may be present during all judicial proceedings against such national, in accordance with the applicable judicial procedures of the receiving State.

10. The rights contained in this article shall be exercised in accordance with the law of the receiving State, so long as these laws do not nullify the purposes for which these rights are accorded.

11. The provisions of this article relating to nationals of the sending State shall likewise apply to persons who are also considered by the receiving State to be nationals of the receiving State if the person has entered the receiving State for a temporary stay on the basis of a valid sending State passport or other lawful travel document of the sending State and has received from the receiving State a valid entry visa or other document authorizing entry into the receiving State. The provisions of this article shall remain valid for such persons even though the temporary period for which they have been authorized to remain in the receiving State has expired due to judicial or administrative proceedings preventing timely departure from the receiving State. Such persons shall also be permitted to leave the receiving State if their travel document issued by the sending State is valid and if an exit visa from the receiving State has been obtained in a manner normally applicable in the case of nationals of the sending State present in the receiving State for a temporary stay.

Article 40. RENDERING ASSISTANCE TO VESSELS

1. A consular officer shall be entitled to provide any type of assistance and support to a vessel of the sending State which is in a port or other anchorage of the receiving State or is in the internal waters, territorial sea or inland waters of the receiving State.

2. A consular officer may board a vessel of the sending State as soon as the vessel has been given permission to establish contact with the shore. On such occasions, the consular officer may be accompanied by members of the consulate with the approval of the competent authorities of the receiving State.

3. The master and members of the crew shall be entitled to meet and communicate with the consular officer and to visit the consulate in accordance with the law of the receiving State, with particular regard to the law of the port and the law relating to crossing the border.

4. A consular officer may address the competent authorities of the receiving State and request their support in carrying out his or her functions with regard to all matters relating to a vessel of the sending State and with regard to the master, members of the crew, passengers and cargo.

Article 41. RENDERING ASSISTANCE TO MASTER AND CREW

1. Without prejudice to any rights of the authorities of the receiving State the consular officer shall be entitled:

- (a) To investigate any incident which occurs aboard a vessel of the sending State, to question the master and any member of the crew with reference to these incidents, to inspect the vessel's papers, to receive information, in connection with the voyage and destination of the vessel and also to render assistance in connection with the entry and departure of a vessel and its stay in the port;
- (b) To settle disputes between the master and a crew member, including disputes concerning wages and employment contracts, insofar as this action is authorized by the law of the sending State, and is not contrary to the laws of the receiving State;
- (c) To take steps connected with the signing on and discharging of the master or of a crew member;
- (d) To take steps for medical treatment of the master, a member of the crew or a passenger of the vessel and to arrange for their repatriation to the sending State;
- (e) To receive, draw up, certify or prolong any declaration or other document provided for by the law of the sending State in regard to a vessel of the sending State or its cargo;
- (f) To undertake other steps to apply the law of the sending State concerning merchant shipping as long as his or her actions do not conflict with the law of the receiving State.

2. The consular officer shall be entitled, in accordance with the law of the receiving State to appear together with the master or a crew member before the courts or other authorities of the receiving State in order to render them any assistance.

*Article 42. PROTECTION OF INTERESTS IN CASE
OF INVESTIGATIONS ON BOARD A VESSEL*

1. If the courts or other competent authorities of the receiving State intend to take coercive measures or to conduct an investigation on board a vessel of the sending State which is in the internal waters, territorial or inland waters of the receiving State, the consular officer shall be notified in advance by the competent authorities of the receiving State so that he or she can be present when such actions are being taken. If the consular officer is not present when such actions are being taken, the competent authorities of the receiving State shall, on request, inform him or her thereof in writing. If the urgency of the measures to be taken does not allow prior notification of the consular officer, the competent authorities of the receiving State shall inform the consular officer in writing of the occurrence and the actions taken, although the consular officer has not so requested.

2. The provisions of paragraph 1 shall likewise apply if the competent authorities of the receiving State summon the master or member of the crew of a vessel of the sending State to answer questions on shore on matters affecting the vessel.

3. Except at the request or with the permission of the consular officer or of the master of the vessel of the sending State, the judicial or other competent authorities of the receiving State shall not interfere on board a vessel of the sending State in the internal affairs of the vessel on questions of relations between the members of the crew, labor relations, discipline on board and other activities of an internal character relating to the vessel provided that the law relating to the peace and safety of the receiving State is not violated.

4. The provisions of this article shall not be applied, however, to ordinary customs, passport and sanitary controls or to other measures undertaken by the competent authorities of the receiving State at the request of, or with the consent of, the master of the vessel. These provisions shall also not be applied in respect of measures undertaken, in accordance with international agreements in force between the sending and receiving States, for the saving of human life at sea and the prevention of pollution of the sea.

Article 43. ASSISTANCE IN THE CASE OF DAMAGE TO VESSELS

1. If a vessel of the sending State is wrecked, grounded or suffers any other damage in a port or in the internal, territorial or inland waters of the receiving State, the competent authorities of the receiving State shall inform a consular officer as soon as possible and inform him or her of the measures taken for saving the passengers and crew and salvaging the vessel and its cargo.

2. The consular officer may give any assistance to a vessel of the sending State, the members of the crew and the passengers, as well as take measures for safeguarding the cargo and repairing the vessel. He may also ask the authorities of the receiving State to undertake such measures.

3. If the owner of a vessel of the sending State, the master or other authorized person is not in a position to undertake the necessary measures for safeguarding, salvaging or disposing of the vessel or its cargo, the consular officer of the sending State, on behalf of the owner, may undertake those measures which the owner of the vessel or the cargo would himself or herself undertake in such a case.

4. The provisions of paragraphs 1, 2 and 3 shall also apply to objects belonging to a national of the sending State and which were on board a vessel, whether of the sending State or of a third state, which were found stranded on the shore or in the waters of the receiving State, or have been brought to a port of the receiving State.

5. The competent authorities of the receiving State shall extend all necessary assistance to a consular officer in taking the measures relating to the average of a vessel of the sending State.

6. A vessel of the sending State which has suffered damage, as well as its cargo and provisions, shall be exempt from customs duties, charges and fees in the receiving State, unless the vessel and its cargo are stored for use in that State.

Article 44. FUNCTIONS WITH REGARD TO AIRCRAFT

Articles 40 through 43 of this Convention shall also apply to Civil aircraft to the extent they are applicable and on the condition that such application is not contrary to any international agreements in force between the sending and receiving States.

PART V. GENERAL AND FINAL PROVISIONS

Article 45. OBSERVING THE LAW OF THE RECEIVING STATE

1. All persons enjoying rights, facilities, privileges and immunities under this Convention are obliged, without prejudice to the same, to observe the law and customs of the receiving State, including traffic regulations, and are also obliged not to interfere in the internal affairs of the receiving State.

2. The consular premises may not be used for purposes inappropriate to the exercise of consular functions or inappropriate to the character of the consulate.

3. A consular officer or a consular employee who is a national of the sending State may not undertake any activity for personal gain in the receiving State outside official functions.

4. All means of transportation belonging to or operated by the sending State or members of a consulate and their families, who are not nationals or permanent residents of the receiving State, shall be adequately insured against civil actions by third parties.

Article 46. PERFORMANCE OF CONSULAR FUNCTIONS BY A DIPLOMATIC MISSION

1. The provisions of this Convention relating to consular functions, rights, facilities, privileges and immunities shall also apply in the case of consular functions being performed by a diplomatic mission.

2. The names of the members of the diplomatic staff of the diplomatic mission entrusted with the performance of consular functions shall be communicated through diplomatic channels to the receiving State.

3. The members of the diplomatic staff of the diplomatic mission referred to in paragraph 2 shall continue to enjoy the privileges and immunities granted them by virtue of their diplomatic status.

*Article 47. RATIFICATION, ENTRY INTO FORCE AND DURATION
OF THE CONVENTION*

1. This Convention shall be subject to ratification. It shall enter into force after the expiration of thirty days following the date of the exchange of instruments of ratification which shall take place at Washington.

2. This Convention shall remain in force until the expiration of six months from the date on which one of the Contracting Parties gives to the other Contracting Party written notification through diplomatic channels of its intention to terminate the Convention.

IN WITNESS WHEREOF, the respective plenipotentiaries of the Contracting Parties have signed this Convention and affixed thereto their seals.

DONE at Berlin on September 4, 1979, in two originals, in the English and German languages, both texts being equally authentic.

For the United States of America:

[Signed — Signé]¹

For the German Democratic Republic:

[Signed — Signé]²

EXCHANGE OF LETTERS

I

Berlin, September 4, 1979

Excellency:

I have the honour to refer to the Consular Convention between the German Democratic Republic and the United States of America signed today, and I am authorized to confirm the following understanding in this connection:

“On the basis of the generally accepted principles of international law, among which is the sovereign right of each state to determine the conditions under which its citizenship is acquired, maintained or lost, the two Contracting Parties agree that, with regard to the implementation of article 39 of the Consular Convention signed today, consular officers of the respective sending state have the right of access to those persons in the respective receiving state who are citizens of the respective sending state.”

I propose that this letter and your written confirmation constitute an agreement between our two Governments.

Accept, Excellency, the assurances of my high consideration.

[Signed]

KURT NIER
Deputy Minister of Foreign Affairs
of the German Democratic Republic

His Excellency David B. Bolen
Ambassador of the United States of America

¹ Signed by David B. Bolen — Signé par David B. Bolen.

² Signed by Kurt Nier — Signé par Kurt Nier.

II

Berlin, September 4, 1979

Excellency:

I confirm the receipt of your letter of September 4, 1979, which reads as follows:

[See letter I]

I am authorized to declare that your letter and this reply constitute an agreement between our two Governments.

Accept, Excellency, the assurances of my high consideration.

[Signed]

DAVID B. BOLEN
Ambassador of the United States
of America

His Excellency Kurt Nier
Deputy Minister of Foreign Affairs
of the German Democratic Republic