

No. 21600

**UNION OF SOVIET SOCIALIST REPUBLICS
and
NICARAGUA**

**Consular Convention (with protocol). Signed at Moscow
on 19 March 1980**

Authentic texts: Russian and Spanish.

*Registered by the Union of Soviet Socialist Republics on 22 February
1983.*

**UNION DES RÉPUBLIQUES SOCIALISTES
SOVIÉTIQUES
et
NICARAGUA**

**Convention consulaire (avec protocole). Signée à Moscou
le 19 mars 1980**

Textes authentiques: russe et espagnol.

*Enregistrée par l'Union des Républiques socialistes soviétiques le 22 fé-
vrier 1983.*

[TRANSLATION—TRADUCTION]

CONSULAR CONVENTION¹ BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE REPUBLIC OF NICARAGUA

The Government of the Union of Soviet Socialist Republics and the Government of National Reconstruction of the Republic of Nicaragua,

In the interests of co-operation and strengthening of friendly relations between the two States,

Wishing to regulate consular relations and thereby facilitate protection of the interests of their States and the rights and interests of their citizens,

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

The Government of the Union of Soviet Socialist Republics: Nikita Semionovich Ryzhov, Deputy Minister for Foreign Affairs of the Union of Soviet Socialist Republics,

The Government of National Reconstruction of the Republic of Nicaragua: Moisés Hassan, Member of the Governing Council of the Government of National Reconstruction of the Republic of Nicaragua,

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

PART I. DEFINITIONS

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

1. "Consulate" shall mean a consulate-general, consulate, vice-consulate or consular agency;

2. "Consular district" shall mean the territory of the receiving State assigned to a consulate for the exercise of consular functions;

3. "Head of consulate" shall mean the consul-general, consul, vice-consul or consular agent who is in charge of a consulate;

4. "Consular officer" shall mean any person, including the head of a consulate, who is authorized to exercise consular functions. The term "consular officer" shall also include persons assigned to the consulate for the purposes of consular training (trainees);

5. "Consular employee" shall mean any person who performs administrative or technical duties in the consulate. The term "consular employee" shall

¹ Came into force on 1 April 1982, i.e., the thirtieth day following the exchange of the instruments of ratification, which took place at Managua on 2 March 1982, in accordance with article 43 (1).

also include drivers, servants, gardeners and other persons employed in the domestic service of the consulate;

6. "Consular premises" shall mean the buildings or parts of buildings, including the residence of the head of a consulate, and the land ancillary to such buildings or parts of buildings, used exclusively for the purposes of the consulate, irrespective of ownership;

7. "Consular archives" shall mean all official correspondence, cipher, documents, books, office equipment and supplies, and equipment intended for their safe-keeping;

8. "Vessel" shall mean any vessel flying the flag of the sending State;

9. "Aircraft" shall mean any aircraft with identifying marks of the sending State;

10. "National of the sending State" shall also mean a legal entity.

PART II. ESTABLISHMENT OF CONSULATES. APPOINTMENT OF CONSULAR OFFICERS AND CONSULAR EMPLOYEES

Article 2. 1. The opening of a consulate in the receiving State shall be subject to the consent of that State.

2. The seat of the consulate, its classification and the consular district shall be determined in each individual case by agreement between the sending State and the receiving State.

3. Any change in the seat, classification or consular district of a consulate shall be subject to the consent of the receiving State.

Article 3. 1. Prior to the appointment of a head of consulate, the sending State shall request, through the diplomatic channel, the agreement of the receiving State to such appointment.

2. After such agreement has been obtained, the diplomatic mission of the sending State shall transmit to the Ministry of Foreign Affairs of the receiving State the consular commission or other document of appointment of the head of consulate. The commission or other document shall specify the full name of the head of consulate, his rank and function, the consular district in which he will perform his duties and the seat of the consulate.

3. On presentation of the commission or other document of appointment of the head of consulate, the exequatur or other authorization shall be granted as soon as possible by the receiving State.

4. The head of consulate may take up his duties as soon as the receiving State has granted him the exequatur or other authorization.

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

6. As soon as the head of consulate has been recognized, even on a provisional basis, the authorities of the receiving State shall make the necessary arrangements to enable him to exercise his functions.

Article 4. The sending State shall notify in advance the Ministry of Foreign Affairs of the receiving State of the full name, rank and function of a consular officer appointed to the consulate in a capacity other than that of head of consulate, and also the full name and nationality of consular employees.

Article 5. A consular officer shall be a national of the sending State.

Article 6. 1. If the head of a consulate is unable for any reason to exercise his functions or if the post of head of consulate is temporarily vacant, the sending State may authorize a consular officer belonging to the same or another consulate in the receiving State or one of the members of the diplomatic mission in the receiving State to act as temporary head of consulate. The full name of the person concerned shall be notified in advance to the Ministry of Foreign Affairs of the receiving State.

2. A person authorized to act as temporary head of a consulate shall be entitled to perform the duties of the head of consulate in whose place he is acting. He shall have the same duties and shall enjoy the same rights, privileges and immunities as though he had been appointed in accordance with article 3 of this Convention.

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

Article 7. The receiving State may at any time, and without having to explain the reason for its decision, notify the sending State through the diplomatic channel that the exequatur or other authorization granted to a head of consulate has been revoked or that a consular officer or consular employee is unacceptable. The sending State shall thereupon recall the consular officer or consular employee concerned. If the sending State fails to carry out this obligation within a reasonable period, the receiving State may decline to continue to recognize the person concerned as a consular officer or consular employee.

Article 8. 1. The sending State shall, within the limits allowed under the laws of the receiving State, purchase, own or lease in any form established by the receiving State land, buildings or parts of buildings for the consulate and living quarters for consular officer and employees who are nationals of the sending State.

The receiving State shall, in case of need, assist the sending State in the purchase of land, buildings or parts of buildings for the above-mentioned purposes.

2. Nothing in paragraph 1 of this article shall exempt the sending State from the obligation to respect the construction and city planning regulations

and other restrictions applicable to the zone in which the land, buildings or parts of buildings are located.

PART III. PRIVILEGES AND IMMUNITIES

Article 9. The receiving State shall afford protection to consular officers and shall make the necessary arrangements to enable consular officers to perform their duties and to enjoy the rights, privileges and immunities to which they are entitled under this Convention and under the law of the receiving State.

Article 10. 1. A consulate shield bearing the coat of arms of the sending State and the appropriate designation of the consulate in the language of the sending State and in the language of the receiving State may be affixed to the building in which the consulate is located.

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

3. A head of consulate may also fly the flag of the sending State on his means of transport used by him in the performance of his official duties.

Article 11. 1. Buildings or parts of buildings used exclusively for the purposes of the consulate, and land serving these buildings or parts of buildings, shall be inviolable.

The authorities of the receiving State shall not enter these buildings or parts of buildings or this land without the prior consent of the head of consulate, of the head of the diplomatic mission of the sending State, or of a person appointed by one of them.

2. The provisions of paragraph 1 of this article shall also apply to the residences of consular officers and of consular employees who are nationals of the sending State.

Article 12. The consular archives shall be inviolable at all times and wherever they may be.

Article 13. 1. A consulate shall have the right to communicate with the Government and with the diplomatic missions and consulates of the sending State. For this purpose the consulate may use all ordinary means of communication, cipher, diplomatic and consular couriers and diplomatic and consular bags.

The same rates shall apply to a consulate in the use of ordinary means of communication as to a diplomatic mission.

A consulate may install or use radio transmitters only with the consent of the receiving State.

2. The official correspondence of a consulate, regardless of the means of communication used, and sealed consular bags bearing visible external marks of their official character shall be inviolable and shall not be subject to inspection or detention by the authorities of the receiving State.

3. Consular couriers of the sending State shall enjoy in the territory of the receiving State the same rights, privileges and immunities as diplomatic couriers.

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

Article 14. The person of a consular officer or a consular employee who is a national of the sending State shall be inviolable. He shall not be subject to arrest or detention in any form. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

Article 15. 1. A consular officer or a consular employee who is a national of the sending State shall enjoy immunity from the jurisdiction of the receiving State, with the exceptions provided for in subparagraph (a), (b) and (c) of paragraph 1 and in paragraph 3 of article 31 of the Vienna Convention on Diplomatic Relations of 18 April 1961.¹

2. Members of the family of such a consular officer or consular employee, residing with him, shall, provided that they are nationals of the sending State, enjoy immunity from the jurisdiction of the receiving State and personal inviolability to the same extent as consular officers or consular employees.

3. The sending State may waive the immunity of a consular officer or consular employee or of a member of the family of such an officer or employee. Such waiver shall always be express.

Waiver of immunity from jurisdiction of the receiving State in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of execution of the judgement, for which a separate waiver must be made.

Article 16. 1. A consular officer shall not be required to give evidence as a witness before the courts or other competent authorities of the receiving State.

2. A consular employee may be summoned to give evidence before the courts or other competent authorities of the receiving State. He may decline to give evidence with regard to matters falling within the scope of his official duties. However, in no case may any penalty or other coercive measures be applied against a consular employee.

3. The provisions of this article shall apply *mutatis mutandis* to members of the families of consular officers and consular employees who reside with them and are nationals of the sending State.

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

Article 17. 1. Consular officers shall be exempt in the receiving State from service in the armed forces and from compulsory public service of any kind.

2. The provisions of paragraph 1 of this article shall also apply to consular employees and members of the families of consular officers and consular employees who reside with them and who are not nationals of the receiving State.

Article 18. Consular officers, consular employees and members of their families residing with them shall be exempt from all requirements under the laws and regulations of the receiving State relative to the registration of aliens, residence permits and other similar matters.

Article 19. 1. The sending State shall be exempt in the receiving State from the imposition and collection of any taxes or other similar charges of any kind in respect of land, buildings or parts of buildings used for consular purposes, including the living quarters of consular officers and consular employees who are nationals of the sending State.

2. The provisions of paragraph 1 of this article shall not apply to payments due in respect of services rendered.

Article 20. The receiving State shall not impose or collect any taxes or other similar charges of any kind in respect of the acquisition, ownership, possession or use of movable property by the sending State for consular purposes.

Article 21. Consular officers and consular employees who are nationals of the sending State shall be exempt in the receiving State from all taxes and other similar charges of any kind imposed or collected by the receiving State in respect of the salaries or wages received by them as compensation for their official duties.

Article 22. Consular officers, consular employees and members of their families who reside with them and are nationals of the sending State shall be exempt in the receiving State from all State, regional or local taxes and other charges of any kind. The above-mentioned persons shall also be exempt from taxes and charges on their movable property.

Article 23. 1. The same exemption from duties or other taxes of any kind imposed upon by reason of importation as is accorded in respect of articles imported for the official use of the diplomatic mission of the sending State in the receiving State shall be accorded in respect of all articles, including motor vehicles, imported exclusively for the official use of the consulate.

2. Consular officers and consular employees, and members of the families of consular officers and consular employees who reside with them and are not nationals of the receiving State, shall be accorded the same exemption from duties on articles for personal use, as is accorded to members of the corresponding category of personnel of the diplomatic mission of the sending State.

3. For the purposes of paragraph 2 of this article, the term “corresponding category of personnel of the diplomatic mission” refers, in relation to consular officers, to members of the diplomatic staff, and, in relation to consular employees, to members of the administrative and technical staff.

Article 24. Subject to the laws and regulations of the receiving State with regard to areas entry into which is prohibited or restricted for reasons of State security, consular officers and consular employees shall be permitted to travel freely within the consular district for the purpose of performing their official duties.

Article 25. All persons to whom privileges and immunities are accorded under this Convention shall, without prejudice to the said privileges and immunities, be under an obligation to respect the laws and regulations of the receiving State, including those relative to the control of traffic and to the insurance of motor vehicles.

Article 26. The privileges and immunities provided for in this Convention, with the exception of article 16, paragraph 2, shall not apply to consular employees and members of the families of consular officers and consular employees who reside with them if such persons are nationals or permanent residents of the receiving State.

PART IV. CONSULAR FUNCTIONS

Article 27. 1. A consular officer shall be entitled to exercise within his consular district the functions specified in this part. A consular officer may, in addition, exercise other official consular functions, provided that they are not contrary to the law of the receiving State.

2. In connection with the exercise of his functions, a consular officer may apply to and correspond with the competent authorities within the consular district.

Article 28. 1. A consular officer shall promote the development of commercial, economic, cultural and scientific relations between the High Contracting Parties and shall promote the development by other means of friendly relations between them.

2. A consular officer shall, within the consular district, be entitled to protect the rights and interests of the sending State, and of its nationals and legal entities.

Article 29. 1. A consular officer shall, within the consular district, be entitled:

- (a) To receive such declarations relative to nationality as may be required under the law of the sending State;
- (b) To keep a register of nationals of the sending State;
- (c) To issue, renew, revoke and amend passports, entry, exit and transit visas and other similar documents;

- (d) To register or receive notifications of the birth or death of nationals of the sending State and to issue the necessary documents. The performance of these acts shall not exempt the persons concerned from the obligation to comply with the law of the receiving State, with regard to registration;
- (e) To solemnize and dissolve marriages and register those acts if so authorized by the sending State and subject to compliance with the law of the receiving State;
- (f) To receive and certify declarations pertaining to the family relationships of nationals of the sending State in conformity with the law of that State;
- (g) To legalize documents.

2. A consular officer shall notify the competent organs of the receiving State of the registration at the consulate, in accordance with subparagraphs (d) and (e) of paragraph 1 of this article, of documents relating to civil status, if such notification is required under local laws.

Article 30. A consular officer may, subject to the law of the receiving State, defend and represent the interests of nationals of the sending State who are minors or who lack full capacity, appoint guardians or trustees for such persons, and supervise the activities of such guardians or trustees, if he is so authorized under the laws of the sending State.

Article 31. 1. A consular officer shall be entitled, within the consular district, to exercise notarial functions as provided for in the law of the sending State:

- (a) At the request of a person of any nationality for use in the sending State;
- (b) At the request of a national of the sending State for use outside the sending State.

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

Article 32. Documents drawn up or certified or translated by a consular officer in accordance with article 31 of this Convention shall be regarded in the receiving State as documents having the same legal significance and evidentiary value as if they had been drawn up, translated or certified by the competent authorities or institutions of the receiving State.

Article 33. 1. The competent authorities of the receiving State shall notify a consular officer of the death of a national of the sending State and shall convey to him information concerning the estate, heirs and legatees and concerning the existence of a will.

2. The competent authorities of the receiving State shall notify a consular officer of the opening of a succession in the receiving State where an heir or legatee is a national of the sending State.

This shall also apply in cases where the competent authorities of the receiving State learn of the opening of a succession in favour of a national of the sending State in the territory of a third State.

Article 34. 1. A consular officer shall be entitled to be present when measures for the inventory and preservation of the estate of a national of the sending State are taken, to participate in signing the relevant statement, and to defend the rights of succession of nationals of the sending State, subject to compliance with the law of the receiving State. A consular officer shall also be entitled to request the competent organs of the receiving State to take appropriate measures for the preservation of the estate.

2. In the event of the death of a national of the sending State while he is temporarily in the territory of the receiving State, a consular officer shall be entitled to receive any property which the deceased had with him, provided that it is not subject to commitments undertaken by the deceased during his stay in the receiving State.

Any subsequent actions in respect of such property, including where necessary its export, shall be subject to compliance with the law of the receiving State.

Article 35. 1. A consular officer shall be entitled, without any special authorization, to represent nationals of the sending State before the authorities of the receiving State where such nationals are absent and have not appointed someone to manage their affairs, or for other reasons are unable to protect their interests. This representation shall continue until they themselves assume the protection of their own rights and interests.

2. In the cases referred to in paragraph 1, a consular officer shall comply with the laws of the receiving State.

Article 36. 1. A consular officer shall be entitled, within the consular district, to meet and communicate with any national of the sending State, to advise him and to render him every assistance, including, where necessary, arrangements for providing him with legal assistance.

No restriction shall be placed by the receiving State upon the access of a national of the sending State to the consulate or upon communication by him with the consulate.

2. In any case where a national of the sending State has been arrested or otherwise detained, the competent authorities of the receiving State shall immediately so inform the appropriate consular officer of the sending State.

3. In any case where a national of the sending State has been arrested or otherwise detained or is serving a sentence of imprisonment, the consular officer shall have the right to visit and communicate with him. The rights referred to in this paragraph shall be exercised in accordance with the laws and regulations of the receiving State, provided, however, that the said laws and regulations shall not invalidate these rights.

Article 37. 1. A consular officer shall be entitled to extend any kind of assistance and aid to a vessel of the sending State in the ports or the territorial or inland waters of the receiving State.

2. A consular officer may proceed on board the vessel as soon as it has received *pratique*, and the master and members of the crew may communicate with a consular officer.

3. A consular officer may request assistance from the competent authorities of the receiving State on any matters relating to the performance of his functions with respect to a vessel of the sending State or to the master and members of the crew of such a vessel.

Article 38. A consular officer shall be entitled, within the consular district:

- (a) To investigate, without prejudice to the rights of the authorities of the receiving State, any incident occurring on board a vessel of the sending State during its voyage, question the master and any member of the crew of such a vessel, examine the vessel's papers, take statements with regard to its voyage and destination and also facilitate the vessel's entry, departure and stay in the port;
- (b) To settle, without prejudice to the rights of the authorities of the receiving State, disputes of any kind between the master and any member of the crew, including disputes as to wages and contracts of service, to the extent that this is permitted under the law of the sending State;
- (c) To make arrangements for the treatment in hospital and the repatriation of the master or any member of the crew of a vessel;
- (d) To receive, draw up or authenticate any declaration or other document prescribed by the law of the sending State in connection with vessels.

Article 39. 1. Where the courts or other competent authorities of the receiving State intend to take any coercive measures or to institute any formal inquiry on board a vessel of the sending State, the competent authorities of the receiving State shall so notify the appropriate consular officer. Such notification shall be made before such action is initiated, so as to enable the consular officer or his representative to be present at the proceedings. If the consular officer or his representative has not been present, he shall, upon request, be provided by the competent authorities of the receiving State with full information with regard to what has taken place.

2. The provisions of paragraph 1 of this article shall apply also in any case where it is the intention of the authorities of the port area to question the master or members of the crew of the vessel ashore.

3. The provisions of this article shall not, however, apply to any routine inspection with regard to customs, immigration or public health or to any action taken at the request, or with the consent, of the master of the vessel.

Article 40. 1. Where a vessel of the sending State is wrecked, runs aground, is swept ashore or otherwise sustains damage in the receiving State or where any article forming part of the cargo of a damaged vessel of a third State, being the property of a national of the sending State, is found on or near the coast of the receiving State or is brought into a port of the receiving State, the competent authorities of the receiving State shall, as soon as possible, notify the appropriate consular officer accordingly. They shall also notify him of measures already taken for the preservation of lives, the vessel, its cargo and other property on board the vessel, and of articles belonging to the vessel or forming part of its cargo which have become separated from the vessel.

2. The consular officer may, without prejudice to the rights of the authorities of the receiving State, render every assistance to the vessel, its passengers and members of its crew, and he may also take measures for the repair of the vessel or may request the competent authorities to take or continue to take such measures.

3. Where a damaged vessel or any article belonging thereto has been found on or near the coast of the receiving State or brought into a port of that State, and neither the master of the vessel, the owner, his agent or the underwriters concerned are in a position to make arrangements for the custody or disposal of the vessel or article, the consular officer shall be deemed to be authorized to make, on behalf of the owner of the vessel, such arrangements as the owner himself could have made for such purposes.

The provisions of this paragraph shall apply also to any article forming part of the cargo of the vessel and belonging to a national of the sending State.

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

Article 41. Articles 37, 38, 39 and 40 shall also apply *mutatis mutandis* to aircraft.

PART V. FINAL PROVISIONS

Article 42. 1. Members of the diplomatic staff of a diplomatic mission of the sending State in the receiving State who are entrusted with the performance of consular functions at that mission shall be accorded the same rights and shall be subject to the same obligations as are provided for by this Convention in the case of consular officers.

2. The performance of consular functions by the persons referred to in paragraph 1 of this article shall not affect the privileges and immunities accorded to them by virtue of their diplomatic status.

Article 43. 1. This Convention shall be ratified and shall enter into force on the thirtieth day after the exchange of instruments of ratification, which shall take place at Managua as soon as possible.

2. The Convention shall remain in force until the expiry of six months from the date on which one High Contracting Party shall have given notice in writing to the other of its intention to terminate it.

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

DONE at Moscow, on 19 March 1980 in duplicate in the Russian and Spanish languages, both texts being equally authentic.

For the Government of the Union
of Soviet Socialist Republics:

[NIKITA SEMIONOVICH RYZHOV]

For the Government of National Re-
construction of the Republic of
Nicaragua:

[MOISÉS HASSAN]

**PROTOCOL TO THE CONSULAR CONVENTION BETWEEN THE UNION OF
SOVIET SOCIALIST REPUBLICS AND THE REPUBLIC OF NICARAGUA**

Upon signing this day the Consular Convention, hereinafter referred to as the Convention, between the Union of Soviet Socialist Republics and the Republic of Nicaragua, the Plenipotentiaries of the Contracting Parties have agreed as follows:

1. The notification to a consular officer provided for in article 36, paragraph 2, of the Convention shall take place within one to three days from the date on which a national of the sending State is arrested or detained in any manner, depending on communications facilities.

2. The right of a consular officer to visit and communicate with a national of a sending State referred to in article 36, paragraph 3, of the Convention shall be accorded within two to four days from the date on which such national is arrested or detained in any manner, depending on where he is.

3. The right of a consular officer provided for in article 36, paragraph 3, of the Convention to visit and communicate with a national of the sending State while he is under arrest or in detention or serving a term of imprisonment shall be accorded on a periodic basis.

4. This protocol shall constitute an integral part of the Convention.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting Parties have signed this protocol and have affixed thereto their seals.

DONE in Moscow on 19 March 1980, in duplicate, in the Spanish and Russian languages, both texts being equally authentic.

For the Government of the Union
of Soviet Socialist Republics:

[NIKITA SEMIONOVICH RYZHOV]

For the Government
of National Reconstruction
of the Republic of Nicaragua:

[MOISÉS HASSAN]