

CONSULAR OFFICERS

Convention signed at México August 12, 1942; exchanges of notes at México August 12 and December 11 and 12, 1942

Senate advice and consent to ratification March 9, 1943

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Entered into force July 1, 1943

57 Stat. 800; Treaty Series 985

CONSULAR CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES

The President of the United States of America and the President of the United Mexican States, being desirous of defining the duties, rights, privileges, exemptions and immunities of consular officers of each country in the territory of the other country, have decided to conclude a convention for that purpose and have appointed as their plenipotentiaries:

The President of the United States of America:

George S. Messersmith, Ambassador Extraordinary and Plenipotentiary of the United States of America in Mexico, and

The President of the United Mexican States:

Ezequiel Padilla, Secretary of Foreign Relations;

Who, having communicated to each other their respective full powers, which were found to be in good and due form, have agreed upon the following Articles:

ARTICLE I

1. Each High Contracting Party agrees to receive from the other High Contracting Party, consular officers in those of its ports, places, and cities, where it may be convenient and which are open to consular representatives of any foreign States.

2. Consular officers of each High Contracting Party shall, after entering upon their duties, enjoy reciprocally in the territories of the other High

Contracting Party all the rights, privileges, exemptions and immunities which are enjoyed by consular officers of the same grade of the most favored nation, there being understood by consular officers Consuls General as well as Consuls and Vice Consuls who are not honorary. As official agents, such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the State which receives them.

3. The Government of each High Contracting Party shall furnish free of charge the necessary exequatur of such consular officers of the other High Contracting Party as present a regular commission signed by the chief executive of the appointing State and under its great seal; and shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer of his Government, such documents as according to the laws of the respective States shall be requisite for the exercise by the appointee of the consular function; provided in either case that the person applying for an exequatur or other document is found acceptable. On the exhibition of an exequatur, or other document in lieu thereof issued to a subordinate or substitute consular officer, such consular officer or such subordinate or substitute consular officer, as the case may be, shall be permitted to perform his duties and to enjoy the rights, privileges, exemptions and immunities granted by this Convention.

4. Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, secretaries or chancellors, whose official character may previously have been made known to the Government of the State in the territory of which the consular function was exercised, may temporarily exercise the consular functions of the deceased or incapacitated or absent consular officer; and while so acting shall enjoy all the rights, privileges, exemptions and immunities that were granted to the consular officer.

5. A consular officer or a diplomatic officer of either High Contracting Party, a national of the State by which he is appointed and duly commissioned or accredited by such State, may, in the capital of the other State, have the rank also of a diplomatic officer or of a consular officer, as the case may be, provided that and for so long as permission for him to exercise such dual functions has been duly granted by the Government of the State in the territory of which he exercises his functions as a consular officer and to which he is accredited as a diplomatic officer, and provided further that in any such case the rank as a diplomatic officer shall be understood as being superior to and independent of the rank as a consular officer.

ARTICLE II

1. Consular officers, nationals of the State by which they are appointed, and not engaged in any private occupation for gain within the territory of

the State in which they exercise their functions, shall be exempt from arrest in such territory except when charged with the commission of an act designated by local legislation as crime other than misdemeanor and subjecting the individual guilty thereof to punishment by imprisonment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

2. In criminal cases the attendance at court by a consular officer as a witness may be demanded by the plaintiff, the defendant, or the judge. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

3. In civil, contentious-administrative¹ and labor cases, consular officers shall be subject to the jurisdiction of the courts of the State which receives them. When the testimony of a consular officer who is a national of the State which appoints him and who is not engaged in any private occupation for gain is taken in civil cases, it shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at the opportune moment of the trial whenever it is possible to do so without serious interference with his official duties.

4. A consular officer shall not be required to testify in criminal, contentious-administrative,¹ labor or civil cases, regarding acts performed by him in his official capacity.

ARTICLE III

1. Consular officers and employees in a consulate,² nationals of the State by which they are appointed, and not engaged in any private occupation for gain within the territory of the State in which they exercise their functions, shall be exempt from all taxes, National, State, Provincial and Municipal, including taxes on fees, wages or salaries received specifically in compensation for consular services, and they shall be exempt from all kinds of charges incident to the licensing, registration, use or circulation of vehicles. However, they shall not be exempt from taxes levied on account of the possession or ownership of immovable property situated within the territory of the State in which they exercise their functions or taxes levied against income derived from property of any kind situated within such territory or belonging thereto.

2. The exemptions provided in paragraph 1 of this Article shall apply equally to other officials who are duly appointed by one of the High Con-

¹ For an understanding regarding the meaning and extent of the expression "contentious-administrative," see exchange of notes of Aug. 12, 1942, p. 1085.

² For an understanding regarding interpretation of the phrase "consular officers and employees in a consulate" in art. III and the word "suites" in art. IV, see exchange of notes of Dec. 11 and 12, 1942, p. 1087.

tracting Parties to exercise official functions in the territory of the other High Contracting Party, provided that such officials shall be nationals of the State appointing them and shall not be engaged in any private occupation for gain within the territory of the State in which they exercise their functions; and provided further that permission for them to exercise such official functions has been duly granted by the Government of the receiving State. The Government of the State appointing such officials shall communicate to the Government of the receiving State satisfactory evidence of the appointment and shall indicate the character of the services which will be performed by the officials to whom the exemptions are intended to apply.

ARTICLE IV

1. Each High Contracting Party agrees to permit the entry free of all duty of all furniture, equipment and supplies intended for official use in the consular offices of the other High Contracting Party, and to extend to such consular officers of the other High Contracting Party as are its nationals and to such members of their families and suites² as are its nationals, the privilege of entry free of duty of their baggage and all other personal property whether accompanying the officer or his family or suite to his post or imported at any time during his incumbency thereof; provided, nevertheless, that there shall not be brought into the territories of either High Contracting Party any article, the importation of which is prohibited by the law of such High Contracting Party, until requirements in accordance with the appropriate law have been duly met.

2. The exemptions provided in paragraph 1 of this Article shall apply equally to other officials who are duly appointed by one of the High Contracting Parties to exercise official functions in the territory of the other High Contracting Party, provided that such officials shall be nationals of the State appointing them. The Government of the State appointing such officials shall communicate to the Government of the receiving State satisfactory evidence of the appointment and shall indicate the character of the services which are to be performed by the officials to whom the exemptions are intended to apply.

3. It is understood, however, that the exemptions provided in this Article shall not be extended to consular officers or other officials who are engaged in any private occupation for gain within the territory of the State to which they have been appointed or in which they exercise their functions, save with respect to Governmental supplies.

ARTICLE V

1. Consular officers may place over the outer door of their respective offices the arms of their State with an appropriate inscription designating the nature of the office, and they may place the coat of arms and fly the

flag of their State on automobiles employed by them in the exercise of their consular functions. Such officers may also fly the flag of their State on their offices, including those situated in the capitals of the respective countries. They may likewise fly such flag over any boat or vessel employed in the exercise of the consular functions.

2. The quarters where consular business is conducted, correspondence to which the official seal of the consulates is affixed, and the archives of the consulates shall at all times be inviolable, and under no pretext shall any authorities of any character of the State in which such quarters or archives are located make any examination or seizure of papers or other property in such quarters or archives or to which the official seal is affixed. When consular officers are engaged in business within the territory of the State in which they exercise their functions, the files and documents of the consulate shall be kept in a place entirely separate from the place where private or business papers are kept. Consular offices shall not be used as places of asylum. No consular officers shall be required to produce official archives in court or to testify as to their contents.

ARTICLE VI

1. Consular officers of either High Contracting Party may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting the nationals of the State by which they were appointed in the enjoyment of rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the Government of the country.

2. Consular officers shall, within their respective consular districts, have the right:

(a) to interview and communicate with the nationals of the State which appointed them;

(b) to inquire into any incidents which have occurred affecting the interests of the nationals of the State which appointed them;

(c) upon notification to the appropriate authority, to visit any of the nationals of the State which appointed them who are imprisoned or detained by authorities of the State; and

(d) to assist the nationals of the State which appointed them in proceedings before or relations with authorities of the State.

3. Nationals of either High Contracting Party shall have the right at all times to communicate with the consular officers of their country.

ARTICLE VII

1. Consular officers, in pursuance of the laws of their respective countries, may, within their respective districts:

(a) take and attest the depositions of any person whose identity they have duly established;

(b) authenticate signatures;

(c) draw up, attest, certify and authenticate unilateral acts, translations, testamentary dispositions, and transcripts of civil registry of the nationals of the State which has appointed the consular officer; and

(d) draw up, attest, certify and authenticate deeds, contracts, documents and written instruments of any kind, provided that such deeds, contracts, documents and written instruments shall have application, execution, and legal effect primarily in the territory of the State which shall have appointed the consular officer.

2. Instruments and documents thus executed and copies and translations thereof, when duly authenticated by the consular officer, under his official seal, shall be received as evidence in the territories of either State, as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn up or executed before a notary or other public officer duly authorized in the State by which the consular officer was appointed; provided, always, that such documents shall have been drawn and executed in conformity to the laws and regulations of the State where they are designed to take effect.

ARTICLE VIII

1. In case of the death of a national of either High Contracting Party in the territory of the other High Contracting Party, without having in the locality of his decease any known heirs or testamentary exécutors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of his death, in order that necessary information may be forwarded to the persons interested.

2. In case of the death of a national of either High Contracting Party in the territory of the other High Contracting Party, without will or testament whereby he has appointed testamentary executors, the consular officer of the State of which the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of such property. Such consular officer shall have the right to be appointed as administrator within the discretion of a court or other

agency controlling the administration of estates, provided the laws of the place where the estate is administered so permit.

3. Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself in that capacity to the jurisdiction of the court or other agency making the appointment for all necessary purposes to the same extent as if he were a national of the State by which he has been received.

ARTICLE IX

1. A consular officer of either High Contracting Party shall within his district have the right to appear personally or by authorized representative in all matters concerning the administration and distribution of the estate of a deceased person under the jurisdiction of the local authorities, for all such heirs or legatees in the estate, either minors or adults, as may be non-residents of the country and nationals of the State by which the consular officer was appointed, unless such heirs or legatees have appeared, either in person or by authorized representatives.

2. A consular officer of either High Contracting Party may on behalf of his nonresident countrymen collect and receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws or other like statutes, for transmission through channels prescribed by his Government to the proper distributees, provided that the court or other agency making distribution through him may require him to furnish reasonable evidence of the remission of the funds to the distributees.

ARTICLE X

1. A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in situations, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered territorial waters or a port within his consular district. Consular officers shall also have jurisdiction over issues concerning the adjustment of wages and the execution of labor contracts of the crews; provided that their intervention will have a conciliatory character, without authority to settle disputes which may arise. This jurisdiction shall not exclude the jurisdiction conferred on the respective local authorities under existing or future laws of the place.

2. When an act committed on board a private vessel under the flag of the State by which the consular officer has been appointed and within the territory or the territorial waters of the State by which he has been received constitutes a crime according to the laws of the receiving State, subjecting the person guilty thereof to punishment as a criminal, the consular officer

shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

3. A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board a vessel under the flag of his country within the territory or the territorial waters of the State by which he has been received, and upon such request the requisite assistance shall be given.

4. A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State by which he has been received for the purpose of observing proceedings or of rendering assistance as an interpreter or agent.

ARTICLE XI

1. A consular officer of either High Contracting Party shall have the right to inspect within the ports of the other High Contracting Party within his consular district, the private vessels of any flag destined to and about to clear for ports of his country, for the sole purpose of observing the sanitary conditions and measures taken on board such vessels, in order that he may be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country and to inform his Government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to one of its ports, with a view to facilitating entry of such vessels, provided that the captain of the vessel shall have requested of the consular officer the issuance or visa of the appropriate bill of health.

2. In exercising the right conferred upon them by this Article, consular officers shall act with all possible despatch and without unnecessary delay.

ARTICLE XII

1. All proceedings relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other High Contracting Party shall be directed by the consular officer of the country to which the vessel belongs and within whose district the wreck may have occurred, or by some other person authorized for such purpose by the law of such country and whose identity shall be made known to the local authorities by the consular officer.

2. The local authorities of the receiving State shall immediately inform the consular officer, or the other authorized person to whom reference is made in the foregoing paragraph, of the occurrence, and shall in the meantime take all necessary measures for the protection of persons and the preservation of the wrecked property. Such authorities shall intervene only to maintain order, to protect the interests of the salvors, if the salvors do not belong to the crew of the wrecked vessel, and to ensure the execution of the arrangements

which shall be made for the entry and exportation of the salvaged merchandise, such merchandise not to be subjected to any customs charges unless intended for subsequent consumption in the country where the wreck has occurred.

3. When the wreck occurs within a port, there shall be observed also those arrangements which may be ordered by the local authorities with a view to avoiding any damage that might otherwise be caused thereby to the port and to other ships.

4. The intervention of the local authorities shall occasion no expense of any kind to the owners or operators of the vessels, except such expenses as may be caused by the operations of salvage and the preservation of the goods saved, together with expenses that would be incurred under similar circumstances by vessels of the country.

ARTICLE XIII

Honorary Consuls or Vice Consuls, as the case may be, shall enjoy, in addition to all the rights, privileges, exemptions, immunities and obligations enjoyed by honorary consular officers of the same rank of the most favored nation, those rights, privileges, exemptions, immunities and obligations provided for in paragraph 3 of Article I and in Articles V, VI, VII, VIII, IX, X, XI and XII of the present Convention, for which they have received authority in conformity to the laws of the State by which they are appointed.

ARTICLE XIV

1. This Convention shall be ratified and the ratifications thereof shall be exchanged in the City of Mexico.

The Convention shall take effect in all its provisions the thirtieth day after the day of the exchange of ratifications and shall continue in force for the term of five years.

2. If, six months before the expiration of the aforesaid period of five years, the Government of neither High Contracting Party shall have given notice to the Government of the other High Contracting Party of an intention of modifying by change or omission any of the provisions of any of the Articles of this Convention or of terminating the Convention upon the expiration of the aforesaid period of five years the Convention shall continue in effect after the aforesaid period and until six months from the date on which the Government of either High Contracting Party shall have notified to the Government of the other High Contracting Party an intention of modifying or terminating the Convention.

In witness whereof the respective Plenipotentiaries have signed this Convention and have hereunto affixed their seals.

Done in duplicate in the English and Spanish languages, in the City of Mexico, on this 12th day of the month of August, 1942.

G. S. MESSERSMITH [SEAL]

E. PADILLA [SEAL]

EXCHANGES OF NOTES

The American Ambassador to the Minister of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA.
Mexico, D.F., August 12, 1942

No. 525

EXCELLENCY:

Pursuant to instructions from my Government, I have the honor to refer to the use in numbered paragraphs 3 and 4 of Article II of the Consular Convention today signed by Your Excellency on behalf of the Government of the United Mexican States, and by me on behalf of the Government of the United States of America, of the expression in the Spanish text "contencioso-administrativos".

My Government has authorized me to state, and to request Your Excellency's confirmation, that the meaning and the extent of this expression is, in English:

"The expression 'contentious-administrative' covers cases involving controversy before an administrative organ of the State, other than those of the Judicial Power, which is invested with judicial functions in accordance with the respective administrative laws"

and, in Spanish,

"La expresión 'contencioso-administrativos' abarca los casos de controversia ante un órgano administrativo del Estado, distinto de los del Poder Judicial, que esté investido de funciones judiciales de acuerdo con las respectivas Leyes Administrativas".

Please accept, Excellency, the renewed assurances of my highest and most distinguished consideration.

GEORGE S. MESSERSMITH

His Excellency

Señor Licenciado EZEQUIEL PADILLA,
Minister for Foreign Relations,
Mexico, D.F.

The Minister of Foreign Affairs to the American Ambassador

[TRANSLATION]

MINISTRY OF FOREIGN RELATIONS
UNITED MEXICAN STATES
MEXICO CITY

56685

MÉXICO, D.F., *August 12, 1942*

MR. AMBASSADOR:

I have the honor to acknowledge the receipt of Your Excellency's courteous note no. 525, dated today, in which you were good enough to state that for the Government of the United States of America the meaning and extent of the expression "contentious-administrative" which is used in paragraphs 3 and 4 of article II of the Consular Convention signed on this same date, by Your Excellency, in the name of the Government of the United States of America, and by me, in that of the United Mexican States, shall be as follows:

[See quoted paragraphs in U.S. note, above.]

As Your Excellency is good enough to request, I have the honor to confirm to you that for the Government of Mexico the above-mentioned expression has the meaning and extent expressed in the note to which I have the honor to reply.

I avail myself of the opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration.

E. PADILLA

His Excellency

GEORGE S. MESSERSMITH,
*Ambassador Extraordinary and Plenipotentiary
of the United States of America,
City.*

The Minister of Foreign Affairs to the American Ambassador

[TRANSLATION]

MINISTRY OF FOREIGN RELATIONS
UNITED MEXICAN STATES
MEXICO CITY

56586

MÉXICO, D.F., *August 12, 1942*

MR. AMBASSADOR:

With reference to the Consular Convention, signed today, between Mexico and the United States of America, I have the honor to communicate to Your Excellency by this note that my Government is in agreement that the provisions thereof do not apply to the Panama Canal Zone.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration.

E. PADILLA

His Excellency
GEORGE S. MESSERSMITH,
*Ambassador Extraordinary and Plenipotentiary
of the United States of America,
City.*

The American Ambassador to the Minister of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA
Mexico, D.F., August 12, 1942

No. 526

EXCELLENCY:

I have the honor to acknowledge receipt of Your Excellency's Note No. 56586 of August 12, 1942, wherein Your Excellency informs me that the Government of the United Mexican States, with reference to the Consular Convention signed today between Mexico and the United States of America, agrees that the provisions of this Convention are not applicable in the Panama Canal Zone.

Please accept, Excellency, the renewed assurances of my highest and most distinguished consideration.

GEORGE S. MESSERSMITH

His Excellency
Señor Licenciado EZEQUIEL PADILLA,
*Minister for Foreign Relations,
Mexico, D.F.*

The American Ambassador to the Minister of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA
Mexico, D.F., December 11, 1942

No. 853

EXCELLENCY:

I have the honor to refer to Your Excellency's Note of September 29, 1942, with respect to the interpretation of the word "suite" as used in the Consular Convention signed by Your Excellency and by myself on behalf of our respective Governments in Mexico City August 12, 1942.

I have the honor to state that the following understanding is proposed by, and is acceptable to my Government with respect to the interpretation of "suite" as used in the Convention under reference:

"The expression 'consular officers and employees in a consulate' as used in Article III of the consular convention between the United States of America and the United Mexican States, signed at Mexico City on August 12, 1942, is understood to include, in addition to duly commissioned and approved consular officers, all persons who are associated with and assist such officers in the necessary and proper conduct of the consular offices, and who are appointed or employed upon a permanent status by, and receive their compensation for consular services from, the Government in whose consular offices they are employed, subject to such exceptions or limitations as may be provided in the convention.

"The expression 'suites' as used in Article IV of the consular convention between the United States of America and the United Mexican States, signed at Mexico City on August 12, 1942, is understood to include (1) persons to whom the expression 'employees in a consulate' in Article III applies, and (2) persons in the suites or retinues of attendants in the proper personal service of consular officers or their families.

"It is understood that, in the case of the extension, to persons in the suites or retinues of attendants in the proper personal service of consular officers or their families as well as to persons to whom the expression 'employees in a consulate' in Article III applies, of the privileges of entry free of duty of their baggage and all other personal property whether accompanying such persons to a consular post or imported at any time during their stay at such post, such importations as may be made under this privilege shall be in the name of, or under the supervision of the consular officer concerned".

If the above interpretation is agreeable to Your Excellency's Government, it will be appreciated if the acceptance thereof may be confirmed by Note.

Please accept, Excellency, the assurances of my most distinguished consideration.

GEORGE S. MESSERSMITH

His Excellency

Señor Licenciado EZEQUIEL PADILLA,
Minister for Foreign Affairs,
Mexico, D.F.

The Minister of Foreign Affairs to the American Ambassador

[TRANSLATION]

MINISTRY OF FOREIGN RELATIONS
UNITED MEXICAN STATES
MEXICO CITY

510040

MEXICO CITY, *December 12, 1942*

MR. AMBASSADOR:

I have the honor to acknowledge the receipt of Your Excellency's very courteous note no. 853, of the 11th of this month, relative to the interpretation which—in your opinion—should be given to the word "suite" used in the Consular Convention of August 12, 1942.

I have taken note that the Government of the United States of America is in agreement that, in the case of importations made by a person of the suite of a consular official, they shall be made—in order to enjoy the exemptions to which the above-mentioned international instrument refers—in the name of the said representative or under his supervision.

In view of the negotiations on this subject conducted between this Ministry and the Embassy worthily in your charge, and bearing in mind, moreover, that the proposal of the American Government fulfils, in principle, the purpose which I sought in making to Your Excellency the suggestion contained in my note of September 29, last, I take pleasure in informing you that the interpretation to which I refer has the acceptance of my Government.

I avail myself of the opportunity to renew to Your Excellency the assurances of my highest consideration.

E. PADILLA

His Excellency GEORGE S. MESSERSMITH,
*Ambassador Extraordinary and Plenipotentiary
of the United States of America,
City.*