

March 14, 1947

CONSULAR CONVENTION BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE UNITED STATES OF AMERICA

Note: The Convention was concurred in by the Senate, S.R. No. 30, April 11, 1947. The Philippine instrument of ratification was signed by the President, October 19, 1948. It entered into force, November 18, 1948 upon the exchange of ratifications by the Parties. It was proclaimed by the President, Proc. No. 121, s. 1949.

Reference: This Convention is also published in I DFA TS No. 3, p. 115; 45 UNTS, p. 23 and TIAS 1741. The Presidential proclamation is published in 45 O.G., p. 1134.

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

The President of the Philippines:

His Excellency **ELPIDIO QUIRINO**, Vice President and concurrently Secretary of Foreign Affairs of the Republic of the Philippines, and

The President of the United States of America:

His Excellency **PAUL V. MCNUTT**, Ambassador of the United States of America

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

ARTICLE I

1. The Government of each High Contracting Party shall, in respect of any consular officer duly commissioned by it to exercise consular functions in the territories of the other High Contracting Party, give written notice to the Government of such consular officer. The Government of each High Contracting Party shall furnish free of charge the necessary exequatur of any consular officer of the other High Contracting Party who presents a regular commission signed by the Chief Executive of the appointing country and under its great seal, and shall issue to a subordinate or substitute consular officer who is duly appointed by an accepted superior consular officer or by any other competent officer of his Government, such documents as according to the laws of the respective High Contracting Parties 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.

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 rights, privileges, exemptions and immunities no less favorable in any respect than the rights, privileges, exemptions and immunities which are enjoyed by consular officers of the same grade of any third country and in conformity with modern international usage. As official agents, such officers shall be entitled to the high consideration of all officials, national, state, provincial or municipal, with whom they have official intercourse in the territories of the High Contracting Party which receives them. It is understood that the term "consular officers", as used in the present Convention, includes consuls general, consuls and vice consuls who are not honorary.

3. Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, any secretary, chancellor or assistant, whose official character as an employee in the consulate may previously have been made known to the Government of the High Contracting Party in whose territories 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 officer.

4. A consular officer or a diplomatic officer of either High Contracting Party, a national of the country by which he is appointed and duly commissioned or accredited, may, in the territories of the other High Contracting Party, have the rank also of a diplomatic officer, or consular officer, as the case may be, it being understood that permission for him to exercise such dual functions shall have been duly granted by the Government of the High Contracting Party in the territories of which he exercises his functions.

ARTICLE II

1. Consular officers, nationals of the High Contracting Party by which they are appointed, and not engaged in any private occupations for gain within the territories of the country in which they exercise their functions, shall be exempt from arrest in such territories except when charged with the commission of an offense designated by local legislation as crime other than a 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, and the exemptions provided for this sentence shall apply equally to employees in a consulate who are nationals of the High Contracting Party by which they are employed, and not engaged in any private occupation for gain.

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

3. In civil cases, consular officers shall be subject to the jurisdiction of the courts in the territories of the High Contracting Party 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 court whenever it is possible to do so without serious interference with his official duties.

4. Consular officers and employees in a consulate shall not be required to testify in criminal or civil cases, regarding acts performed by them in their official capacity.

ARTICLE III

1. The Government of each High Contracting Party shall have the right to acquire and hold, lease and occupy land and buildings required for diplomatic or consular purposes in the territories of the other High Contracting Party, and shall have the right to erect buildings on land which is held by or on behalf of such Government in the territories of the other High Contracting Party for diplomatic or consular purposes, subject to local building regulations.

2. No tax of any kind, national, state, provincial or municipal, shall be levied in the territories of either High Contracting Party on the Government of the other High Contracting Party, or on any officer or employee of such other High Contracting Party, in respect of land or buildings acquired, leased or occupied by such other High Contracting Party and used exclusively for the conduct of official business, except assessments levied for services or local public improvements by which the premises are benefited, provided the right of each High Contracting Party to tax the owner of property leased to the other High Contracting Party is not hereby abridged.

ARTICLE IV

Consular officers and employees in a consulate, nationals of the High Contracting Party by which they are appointed or employed, and not engaged in any private occupation for gain within the territories in which they exercise their functions, shall be exempt from all taxes, national, state, provincial and municipal, levied on their persons or property, except taxes levied on account of the possession or ownership of immovable property situated within the territories in which they exercise their functions or taxes levied on account of income derived from property of any kind situated within such territories. Consular officers and employees in a consulate, nationals of the High Contracting Party by which they are appointed or employed, shall be exempt from the payment of all taxes, national, state, provincial and municipal, on the salaries, allowances, fees or wages received by them in compensation for consular services.

ARTICLE V

1. All furniture, equipment and supplies intended for official use in the consular offices and official consular residences of either High Contracting Party in the territories of the other High Contracting Party shall be permitted entry into such territories free of all duty.

2. Consular officers of either High Contracting Party and members of their families and suites, including employees in a consulate and their families, shall be exempt from the payment of any duty in respect of the entry into the territories of the other High Contracting Party of their baggage and all other personal property, whether preceding or accompanying them to a consular post, either upon first arrival or upon subsequent arrivals, or imported at any time while assigned to or employed at such post.

3. It is understood, however,

(a) that the exemptions provided in paragraph 2 of this Article shall not be extended to consular officers and members of their suites, including employees in a consulate, who are not nationals of the High Contracting Party by which they are appointed or employed, or who are engaged in any private occupation for gain within the territories of the other High Contracting Party;

(b) that in the case of each consignment of articles imported for the personal use of consular officers or members of their families or suites, including employees in a consulate and their families, at any time during their official residence within the territories in which they exercise their functions, a request for entry free of duty shall be made through diplomatic channels; and

(c) that nothing herein shall be construed to permit the entry into the territory of either High Contracting Party of any article the importation of which is specifically prohibited by law.

ARTICLE VI

1. Consular officers of either High Contracting Party may place over the outer door of their respective offices the arms of their country with an appropriate inscription designating the nature of the office; and they may place the coat of arms and fly the flag of their country on automobiles employed by them in the exercise of their consular functions. Such officers may also fly the flag of their country on their offices including those situated in the capitals of the respective countries. They may likewise fly such flag over any boat, vessel, or aircraft employed in the exercise of their consular functions.

2. The quarters where consular business is conducted, all consular correspondence in transit under official seal, and all papers, records, and correspondence comprising the consular archives shall at all times be inviolable and under no pretext shall any authorities of any character of the country in which such quarters or archives are located invade such

premises or make any examination or seizure of papers or other property in such quarters or of such archives. When the consular officers are engaged in business within the territories in which they exercise their functions, the consular files and documents 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 officer shall be required to produce official archives in court or to testify as to their contents.

ARTICLE VII

1. Consular officers of either High Contracting Party shall have the right, within their respective consular districts, to apply to or address the authorities, national, state, provincial, or municipal, for the purpose of protecting the nationals of the High Contracting Party 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 shall 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 shall have the right to apply directly to the Government of the country.

2. Consular officers of either High Contracting Party shall, within their respective districts, have the right to interview, to communicate with, and to advise nationals of their country; to inquire into any incidents which have occurred affecting the interest of such nationals; and to assist such nationals in proceedings before or relations with authorities in the territories of the other High Contracting Party. Consular officers of either High Contracting Party shall be informed immediately whenever nationals of their country are under detention or arrest or in prison or are awaiting trial in their consular districts and they shall, upon notification to the appropriate authorities, be permitted without delay to visit and communicate with any such national.

3. Nationals of either High Contracting Party in the territories of the other High Contracting Party shall have the right at all times to communicate with the consular officers from nationals of either High Contracting Party who are under detention or arrest or in prison or are awaiting trial in the territories of the other High Contracting Party shall be forwarded without delay to such consular officers by the local authorities.

ARTICLE VIII

1. Consular officers in pursuance of the laws of their respective countries shall have the right, within their respective consular districts:

(a) To take and attest the oaths, affirmations or depositions of any occupant of a vessel of their country, or of any national of their country, or of any person having permanent residence within the territories of their country;

(b) To authenticate signatures;